FEDERAL REGISTER

VOLUME 19 NUMBER 135

Washington, Wednesday, July 14, 1954

TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 10544

INSPECTION OF INCOME TAX RETURNS BY FEDERAL TRADE COMMISSION

By virtue of the authority vested in me by section 55 (a) of the Internal Revenue Code (53 Stat. 29; 54 Stat. 1008; 55 Stat. 722; 26 U. S. C. 55 (a)) and in the interest of the internal management of the Government, it is hereby ordered that corporation income tax returns made for the year 1953 and subsequent years shall be open to inspection by the Federal Trade Commission as an aid in executing the powers conferred upon such Commission by the Federal Trade Commission Act of September 26, 1914, 38 Stat. 717, such inspection to be in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in the Treasury decision [1] relating to the inspection of returns by the Federal Trade Commission, approved by me this date.

This Executive order shall be effective upon its filing for publication in the FEDERAL REGISTER.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
July 12, 1954.

[F. R. Doc. 54-5416; Filed, July 13, 1954; 9:41 a. m.]

TITLE 4—ACCOUNTS

Chapter I—General Accounting Office

[Gen. Regs. 97—Revised, Supp. 3]

PART 8—BILLS OF LADING FOR TRANSPORTATION OF GOVERNMENT PROPERTY

SPECIAL PROCEDURES FOR PAYMENT OF MOTOR CARRIER TRANSPORTATION AND ACCESSORIAL CHARGES ON SHIPMENTS OF HOUSEHOLD GOODS STORED IN TRANSIT AT DESTINATION FOR DEPARTMENT OF DEFENSE, PRIOR TO DELIVERY TO CONSIGNEE

JULY 8, 1954.

Section 8.10 is added to read as follows:

§ 8.10 *Special procedures for payment of motor carrier transportation and accessorial charges on shipments of household goods stored in transit at destination for Department of Defense, prior to delivery to consignee.* (a) The payment of transportation charges from the point of shipment to the destination storage point on shipments of household goods forwarded for account of the Department of the Army, the Department of the Navy (including the Marine Corps), or the Department of the Air Force, and stored in transit for account of the motor carrier and for ultimate delivery to the consignee or owner may be made upon completion of the transportation to the carrier's destination storage point and prior to ultimate delivery to the consignee: *Provided,* The carrier hauling the shipment to the destination storage point certifies on the covering Government bill of lading over the signature of its duly authorized representative:

(1) That the described household goods were placed in the carrier's storage warehouse at _____
(Destination warehouse)
on _____,
(Date)

(2) That it will be permitted to remain there for a period of _____
(Number of days)
or such shorter period as may meet the consignee's or owner's demands;

(3) That the carrier(s) hauling the shipment to the destination storage point assumes full carrier liability for the shipment during such storage and until delivery to the consignee or owner within the designated storage period. (In the event space on the Government bill of lading is not available this certificate with appropriate reference to the Government bill of lading number may be made on plain paper and securely attached to said bill of lading.)

(b) When transportation charges have been paid as authorized in paragraph (a) of this section, the payment of accessorial charges, if any, accruing against the shipment after delivery into storage may be made upon presentation by the motor carrier of a claim therefor on Standard Form No. 1113, which should bear the same bill number as the carrier's original bill for transportation

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[1] See Title 26, Chapter I, Part 458, *infra.*

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charges but carrying a letter suffix (Example—No. 12345–*A*) The claims for accessorial charges must identify the bill of lading covering the transportation service, show the basis for the accessorial charges claimed, and be supported by a statement of the following information signed by the consignee, showing:

(1) The accessorial services ordered and furnished;

(2) Receipt of the shipment by the consignee or owner; and

(3) Loss or damage to the shipment, if any.

(c) Transportation charges from point of shipment to the carrier's destination storage point on a shipment in carrier's destination storage on June 11, 1954, or at any time thereafter prior to the date of this section may be paid upon presentation of the original Government bill of lading to which is securely attached a certificate as required by paragraph (a) of this section. Such certificate may be made on plain paper and must refer to the Government bill of lading it covers.

(d) This section relates only to shipments of household goods for the Department of Defense and has no relation to any other commodity.

(Secs. 309, 311 (f), 42 Stat. 25; 31 U. S. C. 49, 52 (f))

[SEAL] FRANK H. WEITZEL,
Acting Comptroller General of the United States.

[F. R. Doc. 54-5344; Filed, July 13, 1954; 8:50 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Docket No. AO 222-A5]

PART 921—MILK IN THE OZARKS MARKETING AREA

SUBPART—ORDER REGULATING HANDLING

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AUTHORITY: §§ 921.0 to 921.101 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

§ 921.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order, and each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Ozarks marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held,

(4) All milk and milk products handled by handlers, as defined in this order, are in the current of interstate commerce or directly burden, obstruct or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler as his pro rata share of such expense, 5 cents, or such lesser amount as the Secretary may prescribe, for each hundredweight of milk (a) received from producers, (b) received as Grade A other source milk (except milk subject to the Class I pricing provisions of another order issued pursuant to the act) and allocated to Class I, or (c) distributed as Class I milk in the marketing area from a nonpool plant.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order, as amended, effective not later than August 1, 1954. Any delay beyond that date in the effective date of this order amending the order, as amended, will seriously threaten the orderly marketing of milk in the Ozarks marketing area. The provisions of the said order are well known to handlers—the recommended decision having been issued April 15, 1954 (19 F R. 2261) and the final decision having been issued June 3, 1954 (19 F. R. 3374) Therefore, reasonable time has been afforded persons affected to prepare for its effective date. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order, as amended, effective August 1, 1954, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (See sec. 4 (c) Administrative Procedure Act, 5 U. S. C. 1001 et seq.)

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping milk covered by this order amending the order, as amended) of more than 50 percent of the milk covered by this order amending the order, as amended, which is marketed within the Ozarks marketing area refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practical means pursuant to the declared policy of the act of advancing the interests of producers of milk which is produced for sale in the marketing area; and

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers who, participated in a referendum thereon and who during the determined representative period (March 1954) were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Ozarks marketing area shall be in conformity to and in compliance with the terms and conditions of this order, as amended, and as hereby further amended, and the aforesaid order, as amended, is hereby further amended, as follows:

DEFINITIONS

§ 921.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

§ 921.2 *Secretary.* "Secretary" means the Secretary of Agriculture or other officer or employee of the United States authorized to exercise the powers or to perform the duties, pursuant to the act of the Secretary of Agriculture.

§ 921.3 *Department.* "Department" means the United States Department of Agriculture or such other Federal agency as is authorized to perform the price reporting functions specified in this part.

§ 921.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 921.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines (a) to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," (b) to have full authority in the sale of milk of its members, and (c) to be engaged in making collective sales or marketing milk or its products for its members.

§ 921.6 *Ozarks marketing area.* "Ozarks marketing area," hereinafter called the marketing area, means all of the territory within the limits of Benton, Boone, Marion, and Washington counties in Arkansas, and Barry, Christian, Douglas, Greene, Howell, Laclede, Lawrence, Ozark, Stone, Taney, Webster, and Wright counties and the Fort Leonard Wood Military Reservation in Missouri.

§ 921.7 *Producer* "Producer" means any person other than a producer-handler who produces milk (a) under a dairy farm permit issued by a health authority duly authorized to administer regulations governing the quality of milk disposed of in the marketing area, or (b) acceptable to agencies of the United States Government for fluid consumption in its institutions or bases in the marketing area; which milk is delivered from the farm to a pool plant or diverted from a pool plant to a nonpool plant for the account of a handler. Milk so diverted shall be deemed to have been received at the pool plant from which diverted if diverted for the account of the operator of such plant. Milk so diverted by a cooperative association shall be deemed to have been received by such association. This definition shall not include a person who produces milk which is received at the plant of a handler partially exempt

from the provisions of this order pursuant to § 921.62 with respect to milk received by such handler.

§ 921.8 *Handler.* "Handler" means: (a) Any person in his capacity as the operator of an approved plant or a pool plant; or (b) any cooperative association with respect to the milk from any producer member of such association which is diverted from a pool plant to a nonpool plant by such cooperative association for its account.

§ 921.9 *Approved plant.* "Approved plant" means a plant where milk is processed and packaged and from which milk, skim milk or cream as disposed of as Grade A Class I milk in the marketing area to wholesale or retail outlets (including sales through vendors or plant stores).

§ 921.10 *Supply plant.* "Supply plant" means a plant, except an approved plant, at which milk is received from dairy farmers producing milk (a) under a dairy farm permit issued by a health authority duly authorized to administer regulations governing the quality of milk disposed of in the marketing area, or (b) acceptable to agencies of the United States Government for fluid consumption in its institutions or bases in the marketing area; and which plant is approved by such health authority or agencies of the United States Government to furnish milk to an approved plant.

§ 921.11 *Pool plant.* "Pool plant" means: (a) An approved plant from which not less than 5 percent of its receipts of producer milk during the month is disposed of as Class I milk in the marketing area to wholesale or retail outlets (including sales through vendors or plant stores) or (b) a supply plant from which producer milk is shipped during the month to an approved plant which is a pool plant: *Provided,* That such supply plant shall not be a pool plant for the months of April, May, June and July, unless such plant makes its milk available to other handlers for distribution as Class I milk in the marketing area. Such milk shall be considered to have been made available if the operator of such plants files with the market administrator on or before the first day of each of the preceding months of August through March a statement offering milk for sale and specifying terms and conditions of sale, including the price or handling charge above the Class I price; such offer to be posted in the market administrator's office.

§ 921.12 *Nonpool plant.* "Nonpool plant" means any milk processing, distributing or manufacturing plant which is not a pool plant.

§ 921.13 *Producer milk.* "Producer milk" means all skim milk and butterfat produced by a producer, which is received at the pool plant directly from producers or diverted pursuant to § 921.7.

§ 921.14 *Other source milk.* "Other source milk" means all skim milk and butterfat other than that contained in (a) producer milk, (b) milk, skim milk or cream received from a pool plant, or (c) Class II nonfluid milk products which are received and held or disposed of without further processing or packaging.

§ 921.15 *Producer-handler.* "Producer-handler" means any person who produces milk and operates an approved plant, but who receives no milk from producers.

MARKET ADMINISTRATOR

§ 921.20 *Designation.* The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 921.21 *Powers.* The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violation;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 921.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to, the following:

(a) Within 45 days following the date upon which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Cause to be paid out of the funds provided by § 921.88 the cost of his bond and those of his employees, his own compensation, and all other expenses (except those incurred under § 921.87) necessarily incurred by him in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part and upon request by the Secretary surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as the Secretary may request;

(g) Audit all reports and payments of each handler by inspection of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends;

(h) Publicly disclose at his discretion unless otherwise directed by the Secretary, the name of any person who, after the date upon which he is required to perform such acts, has not made (1) reports pursuant to §§ 921.30 through 921.32, or (2) payments pursuant to §§ 921.80 through 921.88;

(i) Publicly announce on or before:

(1) The 5th day of each month, the price and butterfat differential for Class I milk and on or before the 5th day after the end of each month the price and butterfat differential for Class II milk; and

(2) The 10th day after the end of such month, the uniform price computed pursuant to § 921.71, the butterfat differential computed pursuant to § 921.81, and the location differential pursuant to § 921.82 (b);

(j) Prepare and disseminate publicly such statistics and information as he deems advisable and as do not reveal confidential information; and

(k) On or before the 15th day after the end of each month, report to each cooperative association of producers which so requests the percentage in each class of the producer milk caused to be delivered by the cooperative association or by its members to each handler during the month. For the purpose of this report, the milk so received shall be allocated in each class for each handler in the same ratio as milk received from all producers by such handler during the month.

REPORTS, RECORDS AND FACILITIES

§ 921.30 *Reports of receipts and utilization.* On or before the 6th day after the end of each month, each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator;

(a) The quantities of skim milk and butterfat contained in all receipts at each of his approved and supply plants within such month:

(1) Of producer milk (including his own farm production)

(2) Of milk, skim milk and cream from other handlers, and

(3) Of other source milk;

(b) The quantities of skim milk and butterfat contained in produce milk diverted pursuant to § 921.7;

(c) The quantities of skim milk and butterfat contained in inventories of Class I products on hand at the beginning and end of the month;

(d) The utilization of all skim milk and butterfat required to be reported pursuant to paragraphs (a) (b) and (c) of this section, including a separate statement of the disposition of Class I milk outside the marketing area;

(e) The name and address of each producer from whom milk was not received during the preceding month, and the date on which such milk was first received;

(f) The name and address of each producer who discontinued deliveries of milk, and the date on which delivery ceased; and

(g) Such other information with respect to receipts and utilization of skim milk and butterfat as the market administrator may prescribe.

§ 921.31 *Reports of payments to producers.* On or before the 20th day after

the end of each month, each handler who purchased or received milk from producers shall submit to the market administrator his producer payroll for such month which shall show for each producer:

(a) The total pounds of milk received and the average butterfat content thereof, and

(b) The amount of payment to each producer or cooperative association, with the prices, deductions, and charges involved.

§ 921.32 *Reports of producer-handlers.* Each producer-handler shall make report to the market administrator at such time and in such manner as the market administrator may prescribe.

§ 921.33 *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business, such accounts and records of his operations, and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The skim milk and butterfat received, utilized or disposed of in any form;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream and milk products handled;

(c) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and each milk product on hand at the beginning and end of each month; and

(d) Payments to producers and cooperative associations.

§ 921.34 *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if within such three year period the market administrator notifies the handler in writing that the retention of such books and records or of specified books and records is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records or specified books and records until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the books and records are no longer necessary in connection therewith.

CLASSIFICATION

§ 921.40 *Basis of classification.* All skim milk and butterfat received within the month by a handler and which is required to be reported pursuant to § 921.30 shall be classified by the market administrator pursuant to the provisions of §§ 921.41 to 921.46.

§ 921.41 *Classes of utilization.* Subject to the conditions set forth in §§ 921.43 and 921.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk and butterfat disposed of in fluid form as milk, skim milk, buttermilk, milk drinks (plain or flavored) cream (fresh or sour) and mixtures of fresh milk, skim milk and cream (except aerated cream, ice cream mix or eggnog) and all skim milk and butterfat not specifically accounted for under paragraph (b) of this section.

(b) Class II milk shall be all skim milk and butterfat (1) used to produce any product other than those specified as Class I in paragraph (a) of this section, (2) in inventory variation of milk, skim milk, cream, or any Class I product, (3) in shrinkage allocated to receipts of milk from producers, but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively, and (4) in shrinkage allocated to receipts of other source milk.

§ 921.42 *Shrinkage.* The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat in producer milk and in other source milk.

§ 921.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect, or if reused in Class I milk after first being classified as Class II milk.

§ 921.44 *Transfers.* Skim milk or butterfat disposed of from a pool plant either by transfer or diversion shall be classified:

(a) As Class I milk if transferred in the form of milk, skim milk, or cream to the pool plant of another handler (except a producer-handler) unless utilization in Class II is claimed by both handlers in their reports submitted to the market administrator pursuant to § 921.30 on or before the 6th day after the end of the month within which such transaction occurred: *Provided,* That the skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in Class II in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 921.46 and any additional amounts of such skim milk or butterfat shall be assigned to Class I milk: *And provided further* That if either or both handlers have received other source milk, the skim milk or butterfat so transferred or diverted shall be classified at both plants so as to result in the greatest possible assignment of Class I milk to producer milk;

(b) As Class I milk if transferred to a producer-handler in the form of a product designated as Class I milk pursuant to § 921.41 (a)

(c) As Class I milk if transferred or diverted in the form of milk, skim milk or cream to a nonpool plant except as otherwise provided in paragraphs (d) and (e) of this section;

(d) As Class I milk if transferred or diverted in bulk form as milk or skim milk to a nonpool plant located in the marketing area or not more than 50 miles by the shortest highway distance as determined by the market administrator from the nearest point in the marketing area unless:

(1) The handler claims Class II on the basis of utilization mutually indicated in writing to the market administrator by both buyer and seller on or before the 6th day after the end of the month within which such transaction occurred;

(2) The buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available if requested by the market administrator for the purpose of verification; and

(3) Not less than an equivalent amount of skim milk and butterfat was actually used as Class II milk in such buyer's plant.

(e) As Class I milk if transferred in bulk form as cream to a nonpool plant unless:

(1) Such cream is transferred without Grade A certification of any health authority;

(2) The handler claims Class II in his report submitted to the market administrator pursuant to § 921.30 on or before the 6th day after the end of the month within which such transaction occurred;

(3) The buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available if requested by the market administrator for the purpose of verification; and

(4) Not less than an equivalent amount of skim milk and butterfat was actually used as Class II milk in such buyer's plant.

§ 921.45 *Computation of skim milk and butterfat in each class.* For each month the market administrator shall correct mathematical and other obvious errors in the report of receipts and utilization submitted by each handler, and shall compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler.

§ 921.46 *Allocation of skim milk and butterfat classified.* After computing the classification of all skim milk and butterfat for each handler pursuant to § 921.45, the market administrator shall determine the classification of producer milk received by such handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk determined pursuant to § 921.41 (b) (3),

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk received from pool plants of other handlers in a form other than milk, skim milk, or cream, according to its classification pursuant to § 921.41,

(3) Subtract from the pounds of skim milk remaining in Class II milk the remaining pounds of skim milk in other source milk which was not subject to the Class I pricing provisions of an order issued pursuant to the act: *Provided,* That if the pounds of skim milk to be subtracted is greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk;

(4) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in other source milk which was subject to the Class I pricing provisions of another order issued pursuant to the act: *Provided,* That if the pounds of skim milk to be subtracted is greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk;

(5) Subtract from the pounds of skim milk remaining in each class the skim milk received in milk, skim milk or cream from pool plants of other handlers according to its classification pursuant to § 921.44 (a)

(6) Add to the pounds of skim milk remaining in Class II milk the pounds of skim subtracted pursuant to subparagraph (1) of this paragraph;

(7) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk received in milk from producers, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be known as "overage."

(b) Determine the pounds of butterfat in each class to be allocated to producer milk in the same manner prescribed for skim milk in paragraph (a) of this section.

(c) Add the pounds of skim milk and the pounds of butterfat allocated to producer milk in each class, respectively, as computed pursuant to paragraphs (a) and (b) of this section and determine the weighted average butterfat content of the milk in each class.

MINIMUM PRICES

§ 921.50 *Basic formula price.* The basic formula price per hundredweight to be used in determining the prices set forth in § 921.51 shall be the higher of the prices per hundredweight for milk of 3.5 percent butterfat content computed pursuant to paragraphs (a) and (b) of this section.

(a) Determine the arithmetical average of the basic or field prices to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture:

Present Operator and Location

Carnation Co., Ava, Mo.
Carnation Co., Seymour, Mo.
Pet Milk Co., Greenville, Ill.
Litchfield Creamery Co., Litchfield, Ill.
Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Orfordville, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
Borden Co., New London, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price per hundredweight obtained by adding any plus amounts obtained pursuant to subparagraphs (1) and (2) of this paragraph:

(1) Multiply by 3.5 the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) of 92-score bulk creamery butter per pound at Chicago, as reported by the Department during the month, add 20 percent thereof;

(2) From the weighted average of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department, subtract 5½ cents and multiply by 7.0.

§ 921.51 *Class prices.* Subject to the provisions of §§ 921.52 and 921.53, the minimum prices per hundredweight to be paid by each handler for milk received from producers during the month shall be as follows:

(a) *Class I milk.* For each of the months of July through March the Class I price shall be the Class I price announced for such month under Order No. 3, as amended, regulating the handling of milk in the St. Louis marketing area, minus 27 cents, and for the months of April, May and June the price for Class I milk shall be the basic formula price for the preceding month plus 63 cents: *Provided,* That 15 cents shall be added to the price for Class I milk at pool plants located in Benton and Washington counties, Arkansas.

(b) *Class II milk.* For the months of August through February, the price for Class II milk shall be the basic formula price. For all other months, the Class II price shall be an amount computed as follows:

(1) Multiply by 4.24 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at Chicago, as reported by the Department during the month: *Provided,* That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu thereof;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for spray process nonfat dry milk solids for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month, by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 75 cents.

§ 921.52 *Butterfat differentials to handlers.* If the weighted average butterfat content of the milk received from producers classified, respectively, in Class I milk or Class II milk for a handler is more or less than 3.5 percent, there shall be added to, or subtracted from, the respective class price computed pursuant to § 921.51 for each one-tenth of 1 percent that such weighted average butterfat content is above or below 3.5 percent, a butterfat differential computed by multiplying the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department, by the applicable factor listed as follows:

(a) *Class I milk.* Multiply such price as computed for the preceding month by 0.120, and round to the nearest one-tenth cent.

(b) *Class II milk.* Multiply such price as computed for the current month by 0.115, and round to the nearest one-tenth cent.

§ 921.53 *Transportation differential.* If milk is received from producers at a pool plant located outside the marketing area, the Class I price for such milk shall be 1.5 cents less per hundredweight for each 10 miles or fraction thereof that such plant is from the nearest point in the marketing area than the Class I price. For the purpose of this section, the distance which a plant is from the nearest place in the marketing area shall be the shortest highway distance as determined by the market administrator.

§ 921.54 *Use of equivalent prices.* If for any reason a price specified by this part for computing class prices or for other purposes is not available in the manner described in this part, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is specified.

APPLICATION OF PROVISIONS

§ 921.60 *Producer-handlers.* The provisions of §§ 921.40 through 921.46, 921.50 through 921.54, 921.70, 921.71, and 921.80 through 921.89, shall not apply to a producer-handler.

§ 921.61 *Handlers operating nonpool plants.* None of the provisions from §§ 921.44 through 921.53, inclusive, or from §§921.70 through 921.85, inclusive, shall apply in the case of a handler in his capacity as the operator of a nonpool plant, except that such handler shall, on or before the 15th day after the end of each month, pay to the market administrator for deposit into the producer-settlement fund an amount calculated by multiplying the total hundredweight of butterfat and skim milk disposed of as Grade A Class I milk from such plant to retail or wholesale outlets (including plant stores) in the marketing area during the month, by the price arrived at by subtracting from the Class I price adjusted by the Class I butterfat and location differentials the Class II price adjusted by the Class II butterfat differential.

§ 921.62 *Plants subject to other Federal orders.* In the case of any approved

plant which the Secretary determines disposes of a greater portion of its milk as Class I milk on retail or wholesale routes (including plant stores) in another marketing area regulated by another order issued pursuant to the act than is disposed of as Class I milk on retail or wholesale routes (including plant stores) in the Ozark marketing area, the provisions of this order shall not apply except as follows: The operator of such plant shall, with respect to the total receipts and utilization of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require, and allow verification of such reports by the market administrator.

DETERMINATION OF UNIFORM PRICE

§ 921.70 *Computation of the value of milk for each handler.* For each month the market administrator shall compute the value of milk for each handler as follows:

(a) Multiply the quantity of milk in each class computed pursuant to § 921.46 (c) by the applicable class price, and add together the resulting amounts;

(b) Add an amount computed as follows: Multiply the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 921.46 (a) (3) and (b) by the price arrived at by subtracting the Class II price adjusted by the Class II butterfat differential from the Class I price adjusted by the Class I butterfat differential and Class I location differential at the nearest plant(s) from which an equivalent amount of other source milk was received;

(c) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 921.46 (a) (7) and (b) by the applicable class prices.

§ 921.71 *Computation of the uniform price.* For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content, f. o. b. market, received from producers as follows:

(a) Combine into one total the values computed pursuant to § 921.70 for all handlers who made the reports prescribed in § 921.30 and who are not in default of payments pursuant to § 921.84;

(b) Add an amount equal to the total deductions to be made pursuant to § 921.82 (a)

(c) Subtract an amount equal to the total payments to be made pursuant to § 921.82 (b)

(d) Subtract if the weighted average butterfat content of producer milk is more than 3.5 percent, or add if such average butterfat content is less than 3.5 percent, an amount computed by multiplying the producer butterfat differential by the difference between 3.5 and the average butterfat content of producer milk and multiplying the resulting figure by the total hundredweight of such milk;

(e) Add an amount equivalent to one-half of the unobligated balance in the producer-settlement fund;

(f) Divide the resulting amount by the total hundredweight of producer milk; and

(g) Subtract not less than 4 cents nor more than 5 cents from the prices computed pursuant to paragraph (f) of this section. The resulting figure shall be the uniform price per hundredweight of milk testing 3.5 percent butterfat, f. o. b. market.

PAYMENTS

§ 921.80 *Time and method of payment.* Each handler shall make payment as follows:

(a) On or before the 15th day after the end of each month, to each producer for whom payment is not received from the handler by a cooperative association pursuant to paragraph (c) of this section, at not less than the uniform price computed pursuant to § 921.71 adjusted by the butterfat and location differentials computed pursuant to §§ 921.81 and 921.82 and less the amount of (1) payment made pursuant to paragraph (b) of this section, (2) marketing service deductions pursuant to § 921.89, and (3) proper deductions authorized in writing by the producer: *Provided,* That if by such date such handler has not received full payment for such month pursuant to § 921.85, he may reduce his total payments to all producers uniformly by not more than the amount of the reduction in payments from the market administrator; and the handler shall, however, complete such payments not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due pursuant to § 921.85.

(b) On or before the 28th day of each month, to each producer for whom payment is not received from the handler by a cooperative association pursuant to paragraph (c) of this section, for milk received from him during the first 15 days of the month at not less than the Class II price for the preceding month.

(c) On or before the 13th day after the end of each month and on or before the 26th day of the month, in lieu of payments pursuant to paragraphs (a) and (b) respectively, of this section, to a cooperative association which so requests, with respect to producers for whose milk such cooperative association is authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to such producers.

(d) In making payments to producers pursuant to paragraph (a) of this section, each handler shall furnish each producer or each cooperative association which receives payment for such producer pursuant to paragraph (c) of this section with a supporting statement in such form that it may be retained, which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The total pounds of milk delivered by the producer, and the average butterfat test thereof, and the pounds per shipment, if such information is not furnished to the producer each day;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of this section;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (b) of this section and § 921.87, together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

(e) Nothing in this section shall abrogate the right of a cooperative association to make payment to its member producers in accordance with the payment plan of such cooperative association.

§ 921.81 *Producer butterfat differential.* In making payments to producers pursuant to § 921.80, a handler shall adjust the uniform price by adding or subtracting, as the case may be, for each one-tenth of 1 percent by which the average butterfat content of such producer milk is more or less than 3.5 percent, an amount equal to the butterfat differential computed pursuant to § 921.52 (b)

§ 921.82 *Location differentials.* (a) In making payments to producers pursuant to § 921.80 for milk received at a pool plant located outside the marketing area, the price per hundredweight shall be reduced 1.5 cents for each 10 miles or fraction thereof that such plant is from the nearest point in the marketing area. For the purpose of this paragraph, the distance which a plant is from the nearest point in the marketing area shall be the shortest highway distance as determined by the market administrator;

(b) In making payments to producers pursuant to § 921.80 for milk received each month at pool plants located in Benton and Washington counties, Arkansas, the price per hundredweight shall be increased by an amount obtained by dividing the total hundredweight of milk received from producers at such plants during the month into the sum resulting from the multiplication of the total hundredweight of Class I milk of such plants during such month by 15 cents: *Provided,* That the resultant price per hundredweight shall be rounded to the nearest one-half cent: *And provided further* That the price per hundredweight shall not be increased pursuant to this paragraph by more than 15 cents.

§ 921.83 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all funds received pursuant to paragraphs (a) and (b) of this section, and out of which he shall make all payments required pursuant to paragraph (c) of this section.

(a) Payments made by handlers pursuant to §§ 921.61, 921.84 and 921.86;

(b) Payments received from the administrator of another order issued pursuant to the act which have been required under such order with respect to milk distributed in the marketing area regulated by such other order from pool plants;

(c) Payments due handlers pursuant to §§ 921.85 and 921.86: *Provided,* That payments due a handler shall be offset by payments due from such handler.

§ 921.84 *Payments to the producer-settlement fund.* On or before the 12th day after the end of each month, each handler shall pay to the market administrator the amount by which the value of the milk received by such handler, as determined pursuant to § 921.70, is greater than an amount computed by multiplying the hundredweight of such handler's producer milk by the uniform price adjusted by the producer butterfat and location differentials.

§ 921.85 *Payments out of the producer-settlement fund.* On or before the 14th day after the end of each month, the market administrator shall pay to each handler the amount by which the value of the milk received by such handler from producers, as determined pursuant to § 921.70, is less than an amount computed by multiplying the hundredweight of such milk by the uniform price adjusted by the producer butterfat and location differentials: *Provided,* That if the unobligated balance in the producer-settlement fund is insufficient to make full payment to all handlers entitled to payment pursuant to this paragraph, the market administrator shall reduce such payments at a uniform rate and shall complete such payments as soon as the appropriate funds are available.

§ 921.86 *Adjustment of accounts.* Whenever audit by the market administrator of any reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 921.87 *Marketing services*—(a) *Deductions.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers (other than himself) pursuant to § 921.80 shall deduct 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all producer milk received by such handler during the month and shall pay such deductions to the market administrator on or before the 15th day after the end of such month. Such moneys shall be used by the market administrator to verify weights, samples and tests of milk received from, and to provide market information to such producers.

(b) *Deductions with respect to members of a producers' cooperative association.* In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made directly to producers pursuant to § 921.80 (a) as are authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 15th day after the end of such month, pay over such deductions to the cooperative association rendering such services.

§ 921.88 *Expense of administration.* As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 15th day after the end of the month for such month 5 cents or such lesser amount as the Secretary may prescribe for each hundredweight of milk (a) received from producers, (b) received at a pool plant as Grade A other source milk (except milk subject to the Class I pricing provisions of another order issued pursuant to the act) and allocated to Class I, or (c) distributed as Class I milk in the marketing area from a nonpool plant.

§ 921.89 *Termination of obligations.* The provisions of this section shall apply to any obligation under this part for the payment of money irrespective of when such obligation arose.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producer or cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator all books and records required by this part to be made available, the market administrator may, within the two year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or wilful concealment of a fact, material to the obligation on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 921.90 *Effective time.* The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 921.91.

§ 921.91 *Suspension or termination.* The Secretary may suspend or terminate any or all of the provisions of this part, whenever he finds that they obstruct or do not tend to effectuate the declared policy of the act. This part shall terminate, in any event, whenever the provisions of the act authorizing it cease to be in effect.

§ 921.92 *Continuing power and duty of the market administrator.* If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under this part, the final accrual or ascertainment of which require further acts by any person (including the market administrator) such further acts shall be performed notwithstanding such suspension or termination.

§ 921.93 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this part, except this section, the market administrator, or such liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 921.100 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to

act as his agent or representative in connection with any of the provisions of this part.

§ 921.101 *Separability of provisions.* If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision and of the remaining provisions of this part to other persons or circumstances shall not be affected thereby.

Issued at Washington, D. C., this 8th day of July 1954, to be effective on and after August 1, 1954.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 54-5372; Filed, July 13, 1954; 8:57 a. m.]

Chapter XI—Agricultural Conservation Program Service, Department of Agriculture

[ACP-1954, Supp. 10]

PART 1101—NATIONAL AGRICULTURAL CONSERVATION

SUBPART—1954

MISCELLANEOUS AMENDMENTS

Pursuant to the authority vested in the Secretary of Agriculture under sections 7-17 of the Soil Conservation and Domestic Allotment Act, as amended, and the Third Supplemental Appropriation Act, 1954, the 1954 National Agricultural Conservation Program, approved August 3, 1953 (18 F R. 4643) as amended August 3, 1953 (18 F. R. 4761) November 4, 1953 (18 F R. 7024) January 6, 1954 (19 F. R. 160) February 15, 1954 (19 F R. 972) March 3, 1954 (19 F. R. 1267), March 22, 1954 (19 F. R. 1639), March 26, 1954 (19 F. R. 1791) May 14, 1954 (19 F R. 2894) and June 17, 1954 (19 F. R. 3793) is further amended as follows:

1. Section 1101.515 (a) is amended by revising the second sentence to read as follows: "Costs will be shared only for those practices, or components of practices, for which cost-sharing is requested by the farm or ranch operator before performance thereof is started."

2. Section 1101.515 (g) is amended by changing section number "1101.560" in the first sentence to "1101.561."

3. Section 1101.515 is amended by adding paragraph (h) as follows:

(h) Notwithstanding the provisions of §§ 1101.500 and 1101.596 (k) pertaining to the completion of practices as a condition of eligibility for cost-sharing, cost-sharing may be approved for components for a practice completed during the program year in accordance with all applicable specifications and program provisions, provided:

(1) The farmer or rancher agrees in writing to complete all remaining components of the practice in accordance with all applicable specifications and program provisions within the time prescribed by the county committee, if cost-sharing is offered to him therefor under a subsequent program; and

(2) The county committee determines that under the circumstances prevailing on the farm in 1954, completion of that component is a reasonable attainment in 1954 toward the ultimate completion of all components of the practice.

Any advance cost-share so paid shall be refunded if the remaining components of the practice are not completed in accordance with all specifications and program provisions within the time prescribed by the county committee, provided the farmer or rancher is offered cost-sharing under a subsequent program for completing such components. The extension of the period for completion of the remaining components of the practice will not constitute a commitment to approve cost-sharing therefor under a subsequent program. Approval of cost-sharing for other practices under subsequent programs may be denied until the remaining components are completed.

4. Section 1101.558 is amended by revising the headnote to read as follows:

§ 1101.558 *Practice D-1. Initial establishment in the cropping system of winter annual legumes, annual ryegrass, or annual bromegrasses including rescue grass, for winter protection from erosion.* * * *

5. A new section 1101.561 is added as follows:

§ 1101.561 *Practice D-4. Establishment of a vegetative cover in the fall of 1954 to protect cropland which will be shifted from crop production in 1955.* Eligible seedings may consist of grasses, legumes, or small grains. This practice is applicable only to cropland which will be shifted for the entire 1955 crop year from crop production to green manure or cover crops. Pasturing consistent with good management may be permitted. Cost-shares paid under this practice shall be refunded if the land is not devoted throughout the 1955 crop year to green manure and cover crops from which no hay or seed is harvested.

Maximum Federal cost-share. 50 percent of the average cost of establishing the vegetative cover, including seedbed preparation, plus 50 percent of the average cost of the minimum required application of approved liming materials and commercial fertilizers for establishment of the cover.

6. Section 1101.573 (a) is amended by adding "Kimball" to the counties designated for Nebraska.

(Sec. 4, 49 Stat. 164; 16 U. S. C. 590d. Interpret or apply secs. 7-17, 49 Stat. 1148, as amended, 68 Stat. 81; 16 U. S. C. 590g-590q)

Done at Washington, D. C., this 8th day of July 1954.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 54-5353; Filed, July 13, 1954; 8:52 a. m.]

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 36]

PART 600—DESIGNATION OF CIVIL AIRWAYS

ALTERATIONS

The civil airway alterations designated herein have been coordinated with the civil operators, the Army, the Navy, and the Air Force, through the Air Coordinating Committee, Airspace Subcommittee, and in order to promote safety in air commerce are adopted to become effective 0001 e. s. t., July 20, 1954.

Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest and therefore is not required.

Part 600 is amended as follows:

1. Section 600.14 *Green civil airway No. 4 (Los Angeles, Calif., to Philadelphia, Pa.)* is corrected by changing name of facility "Acomita, N. Mex., radio range station;" to read: "Grants, N. Mex., radio range station;"

2. Section 600.201 is amended by changing the caption to read: *"Red civil airway No. 1 (Portland, Oreg., to Denver, Colo.)"* and by deleting the last portion which reads: "From the Denver, Colo., radio range station to the Goodland, Kans., nondirectional radio beacon, excluding the portion which overlaps danger areas."

3. Section 600.636 *Blue civil airway No. 36 (Thurman, Colo., to Kimball, Nebr.)* is amended by changing name of facility at Goodland, Kans., from "nondirectional radio beacon" to read: "Goodland, Kans., omnirange station"

4. Section 600.6117 *VOR civil airway No. 117 (Waco, Tex., to Oklahoma City, Okla.)* is revoked.

5. Section 600.6162 is added to read:

§ 600.6162 *VOR civil airway No. 162.* [Unassigned.]

6. Section 600.6163 is added to read:

§ 600.6163 *VOR civil airway No. 163 (Waco, Tex., to Oklahoma City, Okla.)* From the Waco, Tex., omnirange station via the Mineral Wells, Tex., omnirange station; Ardmore, Okla., omnirange station; intersection of the Ardmore omnirange 350° True and the Oklahoma City omnirange 137° True radials to the Oklahoma City Okla., omnirange station, including an east alternate from the Ardmore omnirange station to the Oklahoma City omnirange station via the intersection of the Ardmore omnirange 011° True and the Oklahoma City omnirange 120° True radials.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 302, 52 Stat. 985, as amended; 49 U. S. C. 452)

[SEAL] F B. LEE,
Administrator of Civil Aeronautics.

[F. R. Doc. 54-5341; Filed, July 13, 1954; 8:50 a. m.]

[Amdt. 36]

PART 601—DESIGNATION OF CONTROL AREAS, CONTROL ZONES, AND REPORTING POINTS

ALTERATIONS

The control area, control zone and reporting point alterations designated herein have been coordinated with the civil operators, the Army, the Navy, and the Air Force, through the Air Coordinating Committee, Airspace Subcommittee, and in order to promote safety in air

commerce are adopted to become effective 0001 E. S. T. July 20, 1954.

Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest and therefore is not required.

Part 601 is amended as follows:

1. Section 601.201 is amended by changing caption to read: *"Red civil airway No. 1 control areas (Portland, Oreg., to Denver Colo.)"*

2. Section 601.1014 *Control area extension (Greenville, S. C.) (Greenville-Charlotte-Greensboro area)* is amended by correcting last portion to read: "thence clockwise along the arc of a 30-mile radius circle centered on the Spartanburg, S. C., radio range to the northwest edge of Green civil airway No. 6, thence along the northwest edge of Green civil airway No. 6 to the arc of a 35-mile radius circle centered between the Winston-Salem and Greensboro, N. C., radio ranges at Lat. 36°06'00" Long. 80°01'30" thence clockwise along the arc of this 35-mile radius circle to the point of beginning."

3. Section 601.1038 is amended to read:

§ 601.1038 *Control area extension (Great Falls, Mont.)* That airspace within a 25-mile radius of the Great Falls omnirange station extending from the southern boundary of VOR civil airway No. 120 clockwise to the southeastern boundary of Amber civil airway No. 2, and the airspace within 5 miles either side of the northeast course of the Great Falls radio range extending from the radio range station to a point 30 miles northeast.

4. Section 601.1039 is amended to read:

§ 601.1039 *Control area extension (Portland, Oreg.)* That airspace within a 30-mile radius of the Portland International Airport.

5. Section 601.1133 is amended to read:

§ 601.1133 *Control area extension (Seattle, Wash.)* That airspace within a 30-mile radius of the Seattle-Tacoma International Airport including the airspace southwest of Seattle bounded on the north and west by Blue civil airway No. 71 and on the east by Amber civil airway No. 1, excluding the portions which overlap Fort Lewis danger area (D-244) and Hood Canal caution area (C-243) and including the airspace south-southwest of Seattle bounded on the east by Blue civil airway No. 71, on the south by Lat. 46°35'00" and on the west by Long. 123°03'00"

6. Section 601.1191 *Control area extension (Thermal, Calif.)* is amended by changing name of facility "Thermal, Calif., radio range station" to read "Thermal, Calif., omnirange station" wherever it appears.

7. Section 601.1193 *Control area extension (Monterey, Calif.)* is amended by changing the words "VOR civil airway No. 27W" to read: "VOR civil airway No. 27" wherever they appear.

8. Section 601.1232 is amended to read:

§ 601.1232 *Control area extension (Miami, Fla.)* An area bounded by a line on the eastern edge of Amber civil airway No. 7 at Lat. 26°45'20", thence due east to the western boundary of the Nassau Oceanic Control Area, thence southerly along this boundary to Lat. 24°40'00", Long. 79°00'00", thence southwesterly to Lat. 24°00'00", Long. 80°25'00", thence due north to its intersection with the eastern edge of Amber civil airway No. 7, thence along the eastern edge of Amber civil airway No. 7 to Lat. 26°45'20" point of beginning, excluding the portion below 1,000 feet which lies outside the continental limits of the United States and excluding the portion which overlaps relocated Warning Area (W-171)

9. Section 601.1235 *Control area extension (West Palm Beach, Fla.)* is revoked.

10. Section 601.1347 is added to read:

§ 601.1347 *Control area extension (Colorado Springs, Colo.)* That airspace lying east of Amber civil airway No. 3 within a 25-mile radius of Peterson Municipal Airport, Colorado Springs, Colo.

11. Section 601.1348 is added to read:

§ 601.1348 *Control area extension (Twin Falls, Idaho)* Within 5 miles either side of the 278° True radial of the Twin Falls omnirange extending from the omnirange station to a point 15 miles west.

12. Section 601.1349 is added to read:

§ 601.1349 *Control area extension (Redmond, Oreg.)* Within 5 miles either side of the northwest course of the Redmond radio range extending from the radio range station to a point 17 miles northwest.

13. Section 601.1984 *Five-mile radius zones* is amended by deleting the following airport:

Great Falls, Mont.. Great Falls Municipal Airport.

14. Section 601.2056 *Kansas City, Mo., control zone* is amended by changing the portion which reads: "within 2 miles either side of the north course of the Kansas City radio range extending from the radio range station to the Linkville Fan Marker," to read: "within 2 miles either side of the north course of the Kansas City radio range extending from the radio range station to a point 10 miles north."

15. Section 601.2081 is added to read:

§ 601.2081 *Geneva, N. Y., control zone.* Within a 5-mile radius of Sampson Air Force Base, Geneva, N. Y., and within 2 miles either side of a line bearing 327° True extending from the Sampson AFB to a point 10 miles northwest of the Sampson AFB nondirectional radio beacon.

16. Section 601.2303 is amended to read:

§ 601.2301 *Great Falls, Mont., control zone.* Within a 5-mile radius of Great Falls Municipal Airport, within a 5-mile radius of Great Falls Air Force Base, and within 2 miles either side of direct lines extending from the Great Falls ILS outer marker to the Great Falls Municipal Airport and to the Great Falls Air Force Base.

17. Section 601.4013 *Green civil airway No. 3 (San Francisco, Calif., to New York, N. Y.)* is amended by deleting the following reporting point: "Donner Summit, Calif., radio range station;"

18. Section 601.4014 *Green civil airway No. 4 (Los Angeles, Calif., to Philadelphia, Pa.)* is amended by deleting the following reporting point: "Acomita, N. Mex., radio range station;".

19. Section 601.4103 *Amber civil airway No. 3 (El Paso, Tex., to Great Falls, Mont.)* is amended by deleting the following reporting point: "the intersection of the north course of the Cheyenne, Wyo., radio range and the northeast course of the Laramie, Wyo., radio range;"

20. Section 601.4201 is amended by changing caption to read: *"Red civil airway No. 1 (Portland, Oreg., to Denver Colo.)"* and by deleting the following reporting point: "Goodland, Kans., nondirectional radio beacon."

21. Section 601.4202 *Red civil airway No. 2 (Butte, Mont., to Rapid City, S. Dak.)* is amended by deleting the following reporting point: "Butte, Mont., radio range station;"

22. Section 601.4210 *Red civil airway No. 10 (Amarillo, Tex., to Charleston, S. C.)* is amended by deleting the following reporting point: "the intersection of a line bearing 144° True from the Tuscaloosa, Ala., nondirectional radio beacon and the southwest course of the Birmingham, Ala., radio range;"

23. Section 601.6117 *VOR civil airway No. 117 control areas (Waco, Tex., to Oklahoma City, Okla.)* is revoked.

24. Section 601.6162 is added to read:

§ 601.6162 *VOR civil airway No. 162 control areas.* [Unassigned.]

25. Section 601.6163 is added to read:

§ 601.6163 *VOR civil airway No. 163 control areas (Waco, Tex., to Oklahoma City, Okla.)* All of VOR civil airway No. 163 including an east alternate.

26. Section 601.7001 *Domestic VOR reporting points* is amended by adding the following reporting points:

Lakeland, Fla., omnirange station.

Andrews Intersection: The intersection of the Baltimore, Md., omnirange 196° True and the Washington, D. C., terminal omnirange 140° True radials.

and by deleting the following reporting points:

Mt. Lola Intersection: The intersection of the Reno, Nev., omnirange 268° True and the Sacramento, Calif., omnirange 040° True radials.

Saratoga Intersection: The intersection of the Salinas, Calif., omnirange 319° True and the San Francisco, Calif., omnirange 224° True radials.

Acomita, N. Mex., omnirange station.
Crazy Woman, Wyo., omnirange station.
Wells, Nev., omnirange station.
Fortuna, Calif., omnirange station.
Pocatello, Idaho, omnirange station.
Wendover, Utah, omnirange station.
Dubois, Idaho, omnirange station
Fort Bridger, Wyo., omnirange station.
Cherokee, Wyo., omnirange station.
Hanksville, Utah., omnirange station.
Point Reyes, Calif., omnirange station.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

[SEAL] F. B. LEE,
Administrator of Civil Aeronautics.

[F. R. Doc. 54-5342; Filed, July 13, 1954; 8:50 a. m.]

[Amdt. 3]

PART 620—SECURITY CONTROL OF AIR TRAFFIC

REDESIGNATION OF PACIFIC (COASTAL) AND TRAVERSE CITY (DOMESTIC) ADIZ BOUNDARIES

Part 620 is hereby amended for the purpose of redesignating the boundaries of the Pacific (Coastal) ADIZ and the Traverse City (Domestic) ADIZ. Since a military function of the United States is involved, compliance with notices, procedures, and effective date provisions of section 4 of Administrative Procedure Act is not required.

1. Section 620.21 is amended as follows:

§ 620.21 *Domestic ADIZ's.* * * *

(i) *Traverse City (Domestic) ADIZ.* The area bounded by a line 48°03′ N. 90°00′ W., easterly along the U. S.-Canadian international boundary line to 44°00′ N. 82°13′ W., due west to 44°00′ N. 90°00′ W.; 48°03′ N. 90°00′ W. (point of beginning)

* * * * *

2. Section 620.22 is amended as follows:

§ *620.22 Coastal ADIZ's.* * * *

(b) *Pacific (Coastal) ADIZ.* The area bounded by a line 52°00′ N., 132°00′ W., 48°30′ N., 125°00′ W., 48°29′38″ N., 124°43′35″ W., 48°00′ N., 125°15′ W., 46°15′ N., 124°30′ W., 43°00′ N., 124°40′ W., 40°00′ N., 124°35′ W., 38°50′ N., 124°00′ W., 34°50′ N., 121°10′ W., 34°00′ N., 120°30′ W., 33°15′ N., 118°30′ W., 32°30′ N., 117°45′ W., 32°30′ N., 117°20′ W., along a line parallel to, and approximately 12 miles from the Mexican Coast to 29°00′ N., 114°51′ W., 27°00′ N., 121°30′ W., 38°00′ N., 129°00′ W., 50°00′ N., 132°00′ W., 52°00′ N., 132°00′ W (point of beginning)

* * * * *

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply secs. 1201–1204, 64 Stat. 825; 49 U. S. C. Sup. 701–704)

This amendment shall become effective August 1, 1954.

[SEAL] F. B. LEE,
Administrator of Civil Aeronautics.

[F. R. Doc. 54-5339; Filed, July 13, 1954; 8:49 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

CONSENT TO SERVICE OF PROCESS TO BE FURNISHED BY NON-RESIDENT INVESTMENT ADVISERS AND BY NON-RESIDENT INVESTMENT GENERAL PARTNERS OR MANAGING AGENTS OF INVESTMENT ADVISERS

The Securities and Exchange Commission has adopted a rule which requires each non-resident investment adviser registered or applying for registration and each non-resident general partner or "managing agent" of an unincorporated investment adviser registered or applying for registration to file a written irrevocable consent and power of attorney appointing the Commission as agent to receive process, pleadings and other papers in any civil suit or action, where the cause of action (1) accrues on or after the effective date of the rule, (2) arises out of any activity, in any place subject to the jurisdiction of the United States, occurring in connection with the conduct of business of an investment adviser, and (3) is founded, directly or indirectly, upon the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, or any rule or regulation under any of said acts. The rule provides that service shall be made on the Commission by delivering the requisite number of copies to the Secretary of the Commission or to such other person as the Commission may authorize to act in its behalf, and it also provides that a copy shall be forwarded by the Commission promptly to the appropriate defendants at their last address of record filed with the Commission. The Commission's notice that it was considering the adoption of this rule was published for comment on March 31, 1954, and all comments received have been considered.

Applicable provisions of the various acts administered by the Commission authorize it to institute injunctive actions in cases involving violations of the respective acts, and violations of provisions of these acts may result in civil liabilities. The statutes contain broad venue provisions for suits or actions brought to enforce liabilities or duties created thereunder and the service of process provisions are also broad. As a practical matter, however, rights arising because of violations of these acts may prove unenforceable against non-resident investment advisers or non-resident partners who should be joined as parties where it is impossible to obtain service upon such persons. The proposed rule is intended to give full effect to the provisions of the acts mentioned and to preserve for and afford to the Commission and others the same opportunity to enforce rights or duties against such persons as they have in the case of resident investment advisers and resident partners of such firms.

Under the provisions of the rule a non-resident investment adviser already registered, and each non-resident general partner or "managing agent" of an unincorporated investment adviser already registered, must file the necessary forms not later than October 1, 1954.

Statutory basis. The rule and forms are adopted pursuant to the Securities Act of 1933, particularly section 19 (a) thereof, the Securities Exchange Act of 1934, particularly section 23 (a) thereof, the Trust Indenture Act of 1939, particularly section 319 (a) thereof, the Investment Company Act of 1940, particularly section 38 (a) thereof, and the Investment Advisers Act of 1940 particularly section 211 (a) thereof. The Commission hereby designates this rule to be Rule 173 under the Securities Act of 1933, Rule X-7 under the Securities Exchange Act of 1934, Rule T-0-10 under the Trust Indenture Act of 1939, Rule N-7 under the Investment Company Act of 1940, and Rule R-2 under the Investment Advisers Act of 1940. The Commission deems all the action taken to be necessary and appropriate in the public interest and for the protection of investors, and necessary and appropriate to carry out the provisions of and its functions and powers under said acts.

Text of the rule is as follows:

§ 275.02 *Consent to service of process to be furnished by non-resident investment advisers and by non-resident investment general partners or managing agents of investment advisers.* (a) Each non-resident investment adviser registered or applying for registration pursuant to section 203 of the Investment Advisers Act of 1940, each non-resident general partner of an investment adviser partnership which is registered or applying for registration, and each non-resident managing agent of any other unincorporated investment adviser which is registered or applying for registration, shall furnish to the Commission, in a form prescribed by or acceptable to it, a written irrevocable consent and power of attorney which (1) designates the Securities and Exchange Commission as an agent upon whom may be served any process, pleadings, or other papers in any civil suit or action brought in any appropriate court in any place subject to the jurisdiction of the United States, where the cause of action (i) accrues on or after the effective date of this section, (ii) arises out of any activity, in any place subject to the jurisdiction of the United States, occurring in connection with the conduct of business of an investment adviser, and (iii) is founded, directly or indirectly, upon the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, or any rule or regulation under any of said Acts; and (2) stipulates and agrees that any such civil suit or action may be commenced by the service of process upon the Commission and the forwarding of a copy thereof as provided in paragraph (c) of this section,

and that the service as aforesaid of any such process, pleadings, or other papers upon the Commission shall be taken and held in all courts to be as valid and binding as if due personal service thereof had been made.

(b) The required consent and power of attorney shall be furnished to the Commission within the following period of time:

(1) Each non-resident investment adviser registered at the time this section become effective, and each non-resident general partner or managing agent of an unincorporated investment adviser registered at the time this section becomes effective, shall furnish such consent and power of attorney within 60 days after such date;

(2) Each investment adviser applying for registration after the effective date of this section shall furnish, at the time of filing such application, all the consents and powers of attorney required to be furnished by such investment adviser and by each general partner or managing agent thereof: *Provided, however* That where an application for registration of an investment adviser is pending at the time this rule becomes effective such consents and powers of attorney shall be furnished within 30 days after this section becomes effective.

(3) Each investment adviser registered or applying for registration who or which becomes a non-resident investment adviser after the effective date of this section, and each general partner or managing agent, of an unincorporated investment adviser registered or applying for registration, who becomes a nonresident after the effective date of this section shall furnish such consent and power of attorney within 30 days thereafter.

(c) Service of any process, pleadings or other papers on the Commission under this section shall be made by delivering the requisite number of copies thereof to the Secretary of the Commission or to such other person as the Commission may authorize to act in its behalf. Whenever any process, pleadings or other papers as aforesaid are served upon the Commission, it shall promptly forward a copy thereof by registered mail to the appropriate defendants at their last address of record filed with the Commission. The Commission shall be furnished a sufficient number of copies for such purpose, and one copy for its file.

(d) For purposes of this section the following definitions shall apply:

(1) The term "investment adviser" shall have the meaning set out in section 202 (a) (11) of the Investment Advisers Act of 1940.

(2) The term "managing agent" shall mean any person, including a trustee, who directs or manages or who participates in the directing or managing of the affairs of any unincorporated organization or association which is not a partnership.

(3) The term "non-resident investment adviser" shall mean (i) in the case of an individual, one who resides in or has his principal place of business in any place not subject to the jurisdiction of the United States; (ii) in the case of a corporation, one incorporated in or having its principal place of business in any place not subject to the jurisdiction of the United States; (iii) in the case of a partnership or other unincorporated organization or association, one having its principal place of business in any place not subject to the jurisdiction of the United States.

(4) A general partner or managing agent of an investment adviser shall be deemed to be a nonresident if he resides in any place not subject to the jurisdiction of the United States.

Said rule and forms shall become effective August 2, 1954.

(Sec. 19, 48 Stat. 85, as amended; 15 U. S. C. 77s. Interprets or applies sec. 23, 48 Stat. 901, as amended, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855; 17 U. S. C. 78w, 77sss, 80a-37, 80b-11)

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

JUNE 29, 1954.

[F. R. Doc. 54-5350; Filed, July 13, 1954; 8:51 a. m.]

PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940

CONSENT TO SERVICE OF PROCESS TO BE FURNISHED BY NON-RESIDENT INVESTMENT ADVISERS AND BY NON-RESIDENT INVESTMENT GENERAL PARTNERS OR MANAGING AGENTS OF INVESTMENT ADVISERS

The Commission has adopted the following forms[1] to be used for filing the irrevocable consent to service required under the rule:

§ 279.4 *Form 4-R; irrevocable appointment of agent for service of process, pleadings and other papers by individual non-resident investment adviser.*

§ 279.5 *Form 5-R; irrevocable appointment of agent for service of process, pleadings and other papers by corporation non-resident investment adviser.* A duly certified copy of the resolution of the Board of Directors authorizing the execution of the consent, etc., must be filed with this in the form prescribed.

§ 279.6 *Form 6-R; irrevocable appointment of agent for service of process, pleadings and other papers by partnership non-resident investment adviser.*

§ 279.7 *Form 7-R; irrevocable appointment of agent for service of process, pleadings and other papers by non-resident general partner of an investment adviser.*

An unincorporated non-resident investment adviser not organized as a partnership will use § 279.5 (Form 5-R) with appropriate revisions; and a non-resident "managing agent" of such an unincorporated investment adviser will use § 279.7 (Form 7-R) with appropriate revisions. The rule defines a "managing agent" to mean any person, including a trustee, who directs or manages or who participates in the directing or managing of the affairs of any unincorporated organization or association which is not a partnership.

(Sec. 211, 54 Stat. 855; 15 U. S. C. 80b 11)

The forms to be used for filing the irrevocable consent to service are available on request. Persons requesting forms should state specifically which forms are needed.

Said rule and forms shall become effective August 2, 1954.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

JUNE 29, 1954.

[F. R. Doc. 54-5349; Filed, July 13, 1954; 8:51 a. m.]

[1] Filed as part of original document.

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 53527]

PART 9—IMPORTATIONS BY MAIL

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

AMERICAN GOODS RETURNED

Because experience now shows that an importer's declaration with respect to returned American articles on customs Form 3311 is generally of little value in connection with a shipment of such merchandise having an aggregate value not in excess of $250, the Customs Regulations are amended as follows to leave the requirement of such a declaration in cases involving shipments valued at $250 or less to the discretion of the collector of customs:

1. Section 9.3 (b) is amended by substituting "$250" for "$25" in the second sentence.

2. Section 10.1 (b) is amended by substituting "$250" for "$25" in the last sentence.

(R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624. Interprets or applies par. 1615, sec. 201, 46 Stat. 674, as amended; 19 U. S. C. 1201, par. 1615)

RALPH KELLY, *Commissioner of Customs.*

Approved: June 30, 1954.

H. CHAPMAN ROSE, *Acting Secretary of the Treasury.*

[F. R. Doc. 54-5323; Filed, July 13, 1954; 8:46 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter A—Income and Excess Profits Taxes

[Regs. 118; T. D. 6079]

PART 39—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1951

DEDUCTION OF FEDERAL TAXES BY CASH BASIS TAXPAYER IN COMPUTING SUBCHAPTER A NET INCOME

On December 19, 1953, a notice of proposed rule making regarding amendments to Regulations 111 and 118 (26 CFR Parts 29 and 39), with respect to the

deduction of Federal taxes by a cash basis taxpayer in computing Subchapter A net income, was published in the FEDERAL REGISTER (18 F. R. 8583). After consideration of all such relevant matter as was presented by interested persons regarding the proposals, the amendments set forth below are hereby adopted:

PARAGRAPH 1. Section 39.505–1 of Regulations 118 is hereby amended by adding at the end thereof the following paragraph (f):

§ 39.505–1 *Subchapter A net income.*

* * *

(f) With respect to the additional deduction allowed in section 505 (a) (1) relating to Federal income, war-profits, and excess-profits taxes paid or accrued during the taxable year, a cash basis taxpayer may deduct either the taxes paid or the taxes accrued during the taxable year. However, a taxpayer which in any taxable year deducts the taxes accrued during such year shall in each subsequent taxable year deduct the taxes accrued during such subsequent year.

PAR. 2. The amendment to Regulations 118 (covering taxable years beginning after December 31, 1951) made by paragraph 1 of this Treasury decision is hereby made applicable to taxable years beginning after December 31, 1941, and before January 1, 1952 (such years being covered by Regulations 111).

(53 Stat. 32, 467; 26 U. S. C. 62, 3791)

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

Approved: July 8, 1954.

M. B. FOLSOM,
Acting Secretary of the Treasury.

[F. R. Doc. 54–5328; Filed, July 13, 1954; 8:47 a. m.]

Subchapter B—Estate and Gift Taxes

[Regs. 105; T. D. 6078]

PART 81—REGULATIONS RELATING TO ESTATE TAX

MISCELLANEOUS AMENDMENTS TO CONFORM PART TO POWERS OF APPOINTMENT ACT OF 1951

On August 5, 1953, notice of proposed rule making with respect to amendments to conform the estate tax regulations to sections 1 and 2 of the Powers of Appointment Act of 1951, approved June 28, 1951, was published in the FEDERAL REGISTER (18 F. R. 4599). After consideration of such relevant suggestions as were presented by interested persons regarding the proposal, the following amendments to Regulations 105 (26 CFR Part 81), are hereby adopted:

PARAGRAPH 1. The statutory provisions immediately following section 802 of the Internal Revenue Code and preceding section 302 (f) of the Revenue Act of 1926 (as originally enacted) which precede § 81.24 are deleted.

PAR. 2. There is inserted immediately after section 802 of the Internal Revenue Code and preceding section 302 (f) of the Revenue Act of 1926 (as originally enacted) as set forth preceding § 81.24 the following:

SEC. 403. POWERS OF APPOINTMENT (REVENUE ACT OF 1942, APPROVED OCTOBER 21, 1942).

* * * * *

(d) *Powers with respect to which amendment not applicable.* * * *

(2) The amendments made by this section shall not become applicable with respect to a power to appoint created on or before the date of enactment of this Act, which is exercisable in favor of the decedent, his estate, his creditors, or the creditors of his estate, if at such date the donee of such power is under a legal disability to release such power, until six months after the termination of such legal disability. For the purposes of the preceding sentence, an individual in the military or naval forces of the United States shall, until the termination of the present war, be considered under a legal disability to release a power to appoint.

* * * * *

PUBLIC LAW 58 (82D CONGRESS), APPROVED JUNE 28, 1951.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Powers of Appointment Act of 1951."

SEC. 2. ESTATE TAX—POWERS OF APPOINTMENT.

(a) Section 811 (f) of the Internal Revenue Code (relating to powers of appointment) is hereby amended to read as follows:

(f) *Powers of appointment.*—(1) *Property with respect to which decedent exercises a general power of appointment created on or before October 21, 1942.* To the extent of any property with respect to which a general power of appointment created on or before October 21, 1942, is exercised by the decedent (1) by will or (2) by a disposition which is of such nature that if it were a transfer of property owned by the decedent, such property would be includible in the decedent's gross estate under subsection (c) or (d); but the failure to exercise such a power or the complete release of such a power shall not be deemed an exercise thereof.

If before November 1, 1951, or within the time limited by paragraph (2) of section 403 (d) of the Revenue Act of 1942, as amended, in cases to which such paragraph is applicable, a general power of appointment created on or before October 21, 1942, shall have been partially released so that it is no longer a general power of appointment, the subsequent exercise of such power shall not be deemed to be the exercise of a general power of appointment.

(2) *Powers created after October 21, 1942.* To the extent of any property with respect to which the decedent has at the time of his death a general power of appointment created after October 21, 1942, or with respect to which the decedent has at any time exercised or released such a power of appointment by a disposition which is of such nature that if it were a transfer of property owned by the decedent, such property would be includible in the decedent's gross estate under subsection (c) or (d). A disclaimer or renunciation of such a power of appointment shall not be deemed a release of such power.

For the purposes of this paragraph (2) the power of appointment shall be considered to exist on the date of the decedent's death even though the exercise of the power is subject to a precedent giving of notice or even though the exercise of the power takes effect only on the expiration of a stated period after its exercise, whether or not on or before the date of the decedent's death notice has been given or the power has been exercised.

(3) *Definition of general power of appointment.* For the purposes of this subsection the term "general power of appointment" means a power which is exercisable in favor of the decedent, his estate, his creditors, or the creditors of his estate; except that—

(A) A power to consume, invade, or appropriate property for the benefit of the decedent which is limited by an ascertainable standard relating to the health, education, support, or maintenance of the decedent shall not be deemed a general power of appointment.

(B) A power of appointment created on or before October 21, 1942, which is exercisable by the decedent only in conjunction with another person shall not be deemed a general power of appointment.

(C) In the case of a power of appointment created after October 21, 1942, which is exercisable by the decedent only in conjunction with another person—

(i) If the power is not exercisable by the decedent except in conjunction with the creator of the power—such power shall not be deemed a general power of appointment.

(ii) If the power is not exercisable by the decedent except in conjunction with a person having a substantial interest in the property, subject to the power, which is adverse to exercise of the power in favor of the decedent—such power shall not be deemed a general power of appointment. For the purposes of this clause a person who, after the death of the decedent, may be possessed of a power of appointment (with respect to the property subject to the decedent's power) which he may exercise in his own favor shall be deemed as having an interest in the property and such interest shall be deemed adverse to such exercise of the decedent's power.

(iii) If (after the application of clauses (i) and (ii) the power is a general power of appointment and is exercisable in favor of such other person—such power shall be deemed a general power of appointment only in respect of a fractional part of the property subject to such power, such part to be determined by dividing the value of such property by the number of such person (including the decedent) in favor of whom such power is exercisable.

For the purposes of clauses (ii) and (iii) a power shall be deemed to be exercisable in favor of a person if it is exercisable in favor of such person, his estate, his creditors, or the creditors of his estate.

(4) *Creation of another power in certain cases.* To the extent of any property with respect to which the decedent (1) by will or (2) by a disposition which is of such nature that if it were a transfer of property owned by the decedent, such property would be includible in the decedent's gross estate under subsection (c), exercises a power of appointment created after October 21, 1942; by creating another power of appointment which under the applicable local law can be validly exercised so as to postpone the vesting of any estate or interest in such property, or suspend the absolute ownership or power of alienation of such property, for a period ascertainable without regard to the date of the creation of the first power.

(5) *Lapse of power.* The lapse of a power of appointment created after October 21, 1942, during the life of the individual possessing the power shall be considered a release of such power. The rule of the preceding sentence shall apply with respect to the lapse of powers during any calendar year only to the extent that the property which could have been appointed by exercise of such lapsed powers exceeded in value, at the time of such lapse, the greater of the following amounts:

(A) $5,000, or

(B) 5 percentum of the aggregate value, at the time of such lapse, of the assets out of which, or the proceeds of which, the exercise of the lapsed powers could have been satisfied.

(b) *Date of creation of power.* For the purposes of this section a power of appointment created by a will executed on or before October 21, 1942, shall be considered a power created on or before such date if the person executing such will dies before July 1, 1949, without having republished such will, by codicil or otherwise, after October 21, 1942.

(c) *Effective date.* The amendments made by this section shall be effective as if made by section 403 of the Revenue Act of 1942 on the date of its enactment (applicable with respect to estates of decedents dying after October 21, 1942).

PAR. 3. Section 81.24, as amended by Treasury Decision 5810, approved October 5, 1950, is further amended to read as follows:

§ 81.24 *Property subject to power of appointment by decedent*—(a) *General*—(1) *Introduction.* Subject to the rules prescribed hereinafter, the provisions of section 811 (f) of the Internal Revenue Code require the inclusion in decedent's estate of the value of property in respect of which the decedent possessed, exercised, or released certain powers of appointment. This paragraph contains rules of general application; paragraph (b) (1) of this section contains rules specifically applicable to general powers of appointment created on or before October 21, 1942, in respect to estates of decedents dying after that date; paragraph (b) (2) of this section sets forth specific rules applicable to powers of appointment created after October 21, 1942; and paragraph (c) of this section contains the rules in respect of estates of decedents dying on or before October 21, 1942.

(2) *Power of appointment.* (i) The term "power of appointment" includes all powers which are in substance and effect powers of appointment regardless of the nomenclature used in creating the power and regardless of local property law connotations. For example, if a transfer in trust provides that the beneficiary may appropriate or consume the principal of the trust, such power to consume or appropriate is a power of appointment. Similarly, a power given to a donee to alter, amend, revoke, or terminate a trust is a power of appointment. If the community property laws of a state confer upon the wife of a power of testamentary disposition over property in which she does not have a vested interest she is considered as having a power of appointment. A power in the decedent to remove or discharge a trustee and appoint himself may be a power of appointment. For example, if under the terms of a trust, the trustee or his successor has the power to appoint the principal of the trust for the benefit of individuals including himself, and the decedent has the unrestricted power to remove or discharge the trustee at any time and appoint himself, the decedent will be considered as possessing a power of appointment. On the other hand, the mere power of management, investment, custody of assets, or the power to allocate receipts and disbursements as between income and principal, exercisable in a fiduciary capacity whereby the holder has no power to enlarge or shift any of the beneficial interests therein is not a power of appointment. Further, the right in a beneficiary of a trust to assent to a periodic accounting thereby relieving the trustee from further accountability is not a power of appointment if such right of assent does not consist of any power or right to enlarge or shift the beneficial interests of any beneficiary therein.

(ii) For the purpose of this section, the term "power of appointment" does not include powers reserved by the decedent to himself within the concept of section 811 (c) or (d) (See §§ 81.15 through 81.21.) No provision of section 811 (f) or of this section is to be construed as in any way limiting the application of any other section of the Internal Revenue Code or of these regulations. For example, if a trust created by S provides for payment of the income to A for life with power to A to appoint the remainder by will and, in default of such appointment for payment of the to A for life with power in A to appoint for payment of the remainder to A's estate, there is includible in A's gross estate under section 811 (a) the value of his interest in the remainder whether or not the power is exercised and whether or not the power was created before, on, or after October 21, 1942.

(iii) Where a power of appointment exists only as to part of an entire group of assets or only in respect of a limited interest in property, this section shall apply only to such part or interest.

(3) *General power of appointment.* (i) For purposes of this section, the term "general power of appointment," except as limited in paragraph (b) of this section, means any power of appointment exercisable in favor of the decedent, his estate, his creditors, or the creditors of his estate. A power of appointment exercisable to meet the estate tax, and any other taxes, debts, and charges which are enforceable against the estate, is included within the meaning of a power of appointment exercisable in favor of the decedent's estate or the creditors of his estate. A power of appointment exercisable for the purpose of discharging a legal obligation of the decedent or for his pecuniary benefit is considered a power of appointment exercisable in favor of the decedent or his creditors. However, for the purposes of this section, a power of appointment not otherwise considered to be a general power of appointment is not treated as a general power of appointment merely by reason of the fact that an appointee may, in fact, be a creditor of the decedent or his estate.

(ii) A power to consume, invade, or appropriate property for the benefit of the decedent which is limited by an ascertainable standard relating to the health, education, support, or maintenance of the decedent, shall not be deemed a general power of appointment. Whether a power is limited by an ascertainable standard will be determined by applying the principles followed in ascertaining the extent to which, if any, a bequest to a trust for both private and charitable purposes is allowable as a deduction under section 812 (d). A power to consume, invade, or appropriate property for comfort, pleasure, desire, or happiness, is not a power limited by an ascertainable standard.

(4) *Instruments to be filed with return.* Duplicate copies of the instrument granting the power and, if the power was disclaimed, renounced, exercised or released by an instrument, such instrument, one of each to be certified or verified, must be filed with Form 706 in all cases, unless the decedent was a nonresident, in which case only one copy of each instrument, certified or verified, is required. The copies must be filed even though it is contended that the power was not a general power of appointment and the property is not returned for tax.

(b) *Estates of decedents dying after October 21, 1942*—(1) *General powers of appointment created on or before October 21, 1942.* (i) In the case of a general power of appointment created on or before October 21, 1942, section 811 (f) (1) requires the inclusion in the gross estate of the decedent of the value of property with respect to which such a power is exercised by the decedent (*a*) by will, or (*b*) by a disposition which is of such nature that if it were a transfer of property owned by the decedent, such property would be includible in the decedent's gross estate under section 811 (c) (relating to transfers in contemplation of, or taking effect at, death, or in which possession or enjoyment is retained until death) or section 811 (d) (relating to transfers with power reserved to alter, amend, revoke, or terminate)

(ii) Section 811 (f) (3) (B) provides that a power created on or before October 21, 1942, which is not exercisable by the decedent except in conjunction with another person, shall not be deemed a general power of appointment. See paragraph (a) (3) of this section for definition of a general power of appointment.

(iii) The rules of section 811 (c) or (d) which are to be applied are those in effect on the date of decedent's death which are applicable to transfers made on the date when the exercise of the power occurred. Such rules are to be applied in determining the extent to which and the conditions under which a disposition is considered a transfer of property. Thus, if a decedent, who exercises a general power of appointment by deed, dies after September 23, 1950, the date of enactment of the Revenue Act of 1950, such exercise may not be considered as in contemplation of death unless made within three years prior to the decedent's death. See section 811 (1) and § 81.16. Similarly, if the decedent, before October 8, 1949, exercises a general power of appointment by making a disposition in trust taking effect at death under which he retains a reversionary interest worth less than 5 percent of the value of the transferred property, the exercise of the power does not cause the property to be includible in the gross estate of the decedent since, if it had been a transfer of property owned by the decedent, it would not have been includible under section 811 (c) (1) (C) See § 81.17 (c) On the other hand, if the decedent, on or after October 8, 1949, exercises a general power of appointment by a disposition under which possession

or enjoyment of property subject to the exercise can be obtained only by surviving the decedent, the property will be includible in the decedent's gross estate to the same extent as if the disposition had constituted a transfer by the decedent of property of which he was the owner.

(iv) In the case of estates of decedents dying after October 21, 1942, a power of appointment is exercised where the property subject thereto is appointed to the taker in default of appointment regardless of whether or not the appointed interest and the interest in default of appointment are identical, and regardless of whether or not the appointee renounces any right to take under the appointment.

(v) A failure to exercise a general power of appointment created on or before October 21, 1942, or a complete release of such a power is not considered to be an exercise of a general power of appointment.

(vi) If, at the time he relinquishes a general power of appointment (or at any earlier date) the decedent exercises a power in such a manner or to such an extent that the relinquishment results in the reduction, enlargement, or shift in the beneficial interests in property, such relinquishment will be considered to be an exercise and not a release of a power. For example, assume that A created a trust in 1940 providing for payment of the income to B for life with the power in B to alter or amend the trust, and for payment of the remainder to such persons as B shall appoint or, upon default of appointment, to C. If B amended the trust in 1948 by providing that upon his death the remainder was to be paid to C, and further amended the trust in 1950 by deleting his power to alter or amend the trust, the relinquishment will be considered an exercise and not a release of a general power of appointment. On the other hand, if B in 1948 merely amended the trust by changing the pure ministerial powers of the trustee, his relinquishment of the power in 1950 will be considered as a release of a power of appointment. If a general power of appointment is partially released so that it is not thereafter a general power of appointment, a subsequent exercise of such partially released power shall not be deemed the exercise of a general power of appointment if such partial release occurs prior to whichever is the later of the following dates:

(*a*) November 1, 1951,

(*b*) If the decedent was under a legal disability to release such power on October 21, 1942, the day after the expiration of six months following the termination of such legal disability. See section 403 (d) (2) of the Revenue Act of 1942, as amended.

However, if the general power is partially released on or after November 1, 1951 (except where such partial release is effected within the period of six months following the termination of the legal disability referred to in the preceding sentence) and is thereafter exercised, such exercise will constitute the exercise of a general power of appointment.

(vii) The legal disability referred to is determined under local law and may include the disability of an insane person, a minor, or an unborn child. The fact that the type of general power of appointment possessed by the decedent actually was not generally releasable under the local law does not place the decedent under a legal disability within the meaning of subdivision (vi) (*b*) of this paragraph.

(viii) In general, it is assumed that all general powers of appointment are releasable, unless the local law on the subject is to the contrary, and it is presumed that the method employed to release the power is effective, unless it is not in accordance with the local law relating specifically to releases or, in the absence of such local law, is not in accordance with the local law relating to similar transactions.

(ix) A power to appoint created by a will executed on or before October 21, 1942, shall be considered a power created on or before such date if the person executing such will died before July 1, 1949, without having republished such will, by codicil or otherwise, after October 21, 1942.

(2) *General powers created after October 21, 1942*—(i) *In general.* (*a*) Section 811 (f) (2) requires the inclusion in the gross estate of a decedent of the value of all property with respect to which the decedent has at the time of his death a general power of appointment created after October 21, 1942. For definition of a general power of appointment, see paragraph (a) (3) of this section and for rules applicable to joint powers see subdivision (ii) of this subparagraph. The value of such property is includible in the gross estate whether or not such power is exercised. For purposes of section 811 (f) (2) a power of appointment is considered to exist on the date of the decedent's death where the time for the exercise of the power is determined by the date of his death. It is also considered to exist on the date of the decedent's death even though the exercise of the power is subject to the precedent giving of notice, or even though the exercise of the power takes effect only on the expiration of a stated period after its exercise, whether or not on or before the decedent's death notice has been given or the power has been exercised.

(*b*) The statute also requires, except in case of a bona fide sale for an adequate and full consideration in money or money's worth, the inclusion in the gross estate of property with respect to which the decedent has exercised or released a general power of appointment by a disposition which is of such a nature that, if it were a transfer of property owned by the decedent, such property would be includible in the decedent's gross estate under section 811 (c) or (d) The principles set forth in subparagraph (1) of this paragraph for determining the application of the pertinent provisions of section 811 (c) or (d) to a particular exercise of a power of appointment are applicable for purposes of determining whether an exercise or release of a power of appointment created after October 21, 1942, causes the property to be included in the decedent's estate under section 811 (f) (2)

(ii) *Joint powers created after October 21, 1942.* The following rules shall apply with respect to a power of appointment created after October 21, 1942, which is exercisable only in conjunction with another person:

(*a*) Such a power shall not be considered as a general power of appointment if it is not exercisable by the decedent except with the consent or joinder of the creator of the power.

(*b*) Such a power shall not be considered as a general power of appointment if it is not exercisable by the decedent except with the consent or joinder of a person having a substantial interest in the property subject to the power which is adverse to the exercise of the power in favor of the decedent, his estate, his creditors, or the creditors of his estate. A taker in default of appointment has an interest which is adverse to such an exercise. A coholder of the power has no adverse interest merely because of his joint possession of the power nor merely because he is a permissible appointee under a power. However, a coholder of a power is considered as having an adverse interest where he may possess the power after the decedent's death and may exercise it at that time in favor of himself, his estate, his creditors, or the creditors of his estate. Thus, for example, if X, Y, and Z hold a power jointly to appoint among a group of persons which includes themselves and on the death of X the power will pass to Y and Z jointly then Y and Z are considered to have interests adverse to the exercise of the power in favor of X.

(*c*) A power which is exercisable only in conjunction with another person and which after application of the rules set forth in (*a*) and (*b*) of this subdivision, constitutes a general power of appointment will be treated as though the holders of the power who are permissible appointees of the property were joint owners of property subject to the power. The decedent, under this rule, will be treated as possessed of a general power of appointment over an aliquot share of the property to be determined with reference to the number of joint holders, including the decedent, who (or whose estates or creditors) are permissible appointees. Thus, for example, if X, Y, and Z hold an unlimited power jointly to appoint among a group of persons, including themselves, but on the death of X the power does not pass to Y and Z jointly, then Y and Z are not considered to have interests adverse to the exercise of the power in favor of X. In this case, X is considered to possess a general power of appointment as to one-third of the property subject to the power.

(iii) *Releases and lapses of general powers of appointment.* (*a*) A release of a power of appointment need not be formal or express in character. The failure to exercise a power of appointment created after October 21, 1942, within a specified time, so that the power lapses, constitutes a release of the power. However, section 811 (f) (5) provides that such a lapse of a power of appoint-

ment during any calendar year shall be treated as a release for purposes of inclusion of property in the gross estate under section 811 (f) (2) only to the extent that the property which could have been appointed by exercise of such lapsed power exceeds the greater of (1) $5,000 or (2) 5 percent of the aggregate value, at the time of such lapse, of the assets out of which, or the proceeds of which, the exercise of the lapsed powers could have been satisfied. Thus, for example, if an individual has a noncumulative right to withdraw $10,000 a year from the principal of $200,000 trust fund (which neither increases nor decreases in value prior to death) the failure to exercise this right of withdrawal will not result in estate tax with respect to the power to withdraw $10,000 which lapses each year prior to the year of death. At death there will be included in the gross estate of the holder of the power the $10,000 which he was entitled to withdraw for the year in which his death occurs less any amount which he may have taken during such year. However, if in the above example the holder of the power had had the right to withdraw $15,000 annually, the failure to exercise this power in any year will be considered a release of the power to the extent of the excess of the amount subject to withdrawal over 5 percent of the trust fund (in this example, $5,000, if the trust fund is worth $200,000 at the time of the lapse)

(b) The purpose of section 811 (f) (5) is to provide a determination, as of the date of the lapse of the power, of the proportion of the property over which the power lapsed which is an exempt disposition for estate tax purposes and the proportion thereof which, if the other requirements of section 811 are satisfied, will be considered as a taxable disposition. Once the taxable proportion of any disposition at the date of lapse has been determined, the valuation of that proportion as of the date of the decedent's death (or, if the executor has elected the valuation provided by section 811 (j) the value as of the date therein provided) is to be ascertained in accordance with the principles which are applicable to the valuation of transfers of property by the decedent under the corresponding provisions of section 811 (c) and (d). Where the failure to exercise the power, such as the right of withdrawal, occurs in more than a single year, the proportion of the property over which the power lapsed which is treated as a taxable disposition will be determined separately for each such year. The aggregate of the taxable proportions for all such years, valued in accordance with the above principles, will be includible in the gross estate by reason of the lapse. The includible amount, however, shall not exceed the aggregate value of the assets out of which, or the proceeds of which, the exercise of the power could have been satisfied, valued as of the date of the decedent's death (or, if the executor has elected the valuation provided by section 811 (j) the value as of the date therein provided)

(c) A disclaimer or renunciation of a general power of appointment is not considered to be a release of the power. The disclaimer or renunciation must be unequivocal and effective under local law. A disclaimer is a complete and unqualified refusal to accept the rights to which one is entitled. Such rights refer to the incidents of the power and not to other interests of the decedent in the property. If effective under local law, the power may be disclaimed or renounced without disclaiming or renouncing such other interests. There can be no disclaimer or renunciation of a power after its acceptance. In the absence of facts to the contrary, the failure to renounce or disclaim within a reasonable time after learning of its existence will be presumed to constitute an acceptance of the power.

(iv) *Successive powers.* (a) Section 811 (f) (4) provides that there shall be included in the gross estate of a decedent the value of any property with respect to which the decedent (1) by will, or (2) by a disposition which is of such nature that if it were a transfer of property owned by the decedent, such property would be includible in the decedent's gross estate under section 811 (c) exercises a power of appointment (whether or not a general power of appointment) created after October 21, 1942, by creating another power of appointment which under the applicable local law can be validly exercised so as to postpone the vesting of any estate or interest in such property, or suspend the absolute ownership or power of alienation of such property, for a period ascertainable without regard to the date of the creation of the first power.

(b) For purposes of the application of section 811 (f) (4), the value of the property subject to the second power of appointment shall be considered to be such value unreduced by any precedent or subsequent interest which is not subject to such second power. Thus, if a decedent has a power to appoint by will $100,000 to a group of persons consisting of his children and grandchildren and exercises such power by making an outright appointment of $75,000 and by giving one appointee a power to appoint $25,000, no more than $25,000 will be includible in the decedent's gross estate under section 811 (f) (4). If, however, the decedent appoints the income from the entire fund to a beneficiary for life with power in the beneficiary to appoint the remainder by will, the entire $100,000 will be includible in the decedent's gross estate under section 811 (f) (4) if the exercise of the second power can validly postpone the vesting of any estate or interest in such property or can suspend the absolute ownership or power of alienation of such property for a period ascertainable without regard to the date of the creation of the first power.

(c) *Estates of decedents dying before October 21, 1942.* The regulations prescribed under this paragraph are applicable only with respect to estates of decedents who died on or before October 21, 1942, the date of the enactment of the Revenue Act of 1942. Property passing under a general power of appointment must be included in the gross estate of the person exercising the power (known as the donee, or appointor), if the power is exercised by will. It should also be so included if the power is exercised by deed or other instrument either (1) in contemplation of death, (2) with the intent that the transfer shall take effect in possession or enjoyment at or after the death of the donee of the power, (3) with the retention or reservation by the decedent of the use, possession, right to the income, or other enjoyment of the transferred property, or (4) with the retention or reservation by the decedent of the right to designate the person or persons who shall possess or enjoy the transferred property or the income thereof. (For description of such transfers and the taxability thereof with reference to when made and when the death occurred, see §§ 81.16 to 81.19, inclusive.)

PAR. 4. Section 81.47a (d) is amended as follows:

(A) By changing "811 (f) (3)" appearing at the end of subparagraph (6) thereof to read "811 (f) (2)"; and

(B) By changing the parenthetical expression immediately at the end of subparagraph (6) thereof to read as follows: "(See § 81.24 (b) (2).)"

PAR. 5. Section 81.17, as amended by Treasury Decision 5936, approved October 6, 1952, is further amended as follows:

(A) By amending the last sentence of paragraph (b) (2) to read as follows: "Notwithstanding the foregoing rules, an interest in property transferred by the decedent is not includible in the gross estate under this paragraph if possession or enjoyment of the property was obtainable by any beneficiary during the decedent's life through the exercise of a general power of appointment, as defined in section 811 (f) (3), which was in fact exercisable immediately prior to the decedent's death."

(B) By amending the second sentence of the first undesignated paragraph of paragraph (b) to read as follows: "For the purpose of subparagraph (2) of this paragraph, the expression "some other event" includes the expiration of a term of years or the happening or failure to happen of a certain or uncertain event (including the possible exercise of a power which is not a taxable general power of appointment as defined in section 811 (f) (3))."

(53 Stat. 467; 26 U. S. C. 3791)

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

Approved: July 7, 1954.

M. B. FOLSOM,
Acting Secretary of the Treasury.

[F. R. Doc. 54-5326; Filed, July 13, 1954; 8:46 a. m.]

[Regs. 108; T. D. 6077]

PART 86—GIFT TAX UNDER CHAPTER 4 OF THE INTERNAL REVENUE CODE, AS AMENDED

MISCELLANEOUS AMENDMENTS TO CONFORM TO POWERS OF APPOINTMENT ACT OF 1951

On August 5, 1953, notice of proposed rule making with respect to amendments to conform the gift tax regulations to

sections 1 and 3 of the Powers of Appointment Act of 1951, approved June 28, 1951, was published in the FEDERAL REGISTER (18 F R. 4602) After consideration of such relevant suggestions as were presented by interested persons regarding the proposals, the following amendments to Regulations 108 (26 CFR Part 86) are hereby adopted:

PARAGRAPH 1. Section 452 of the Revenue Act of 1942 and all statutory provisions amending such section which precede § 86.1 are hereby deleted.

PAR. 2. There is inserted immediately preceding § 86.1 the following:

SEC. 452. POWERS OF APPOINTMENT (REVENUE ACT OF 1942, APPROVED OCTOBER 21, 1942).

* * * * *

(b) *Powers with respect to which amendments not applicable.* * * *

(2) The amendments made by this section shall not become applicable with respect to a power to appoint created on or before the date of enactment of this Act, which is exercisable in favor of the donee of the power, his estate, his creditors, or the creditors of his estate, if at such date the donee of such power is under a legal disability to release such power, until six months after the termination of such legal disability. For the purposes of the preceding sentence, an individual in the military or naval forces of the United States shall, until the termination of the present war, be considered under a legal disability to release a power to appoint.

* * * * *

PUBLIC LAW 58 (82D CONGRESS), APPROVED JUNE 28, 1951.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Powers of Appointment Act of 1951"

* * * * *

SEC. 3. GIFT TAX—POWERS OF APPOINTMENT.

(a) Section 1000 (c) of the Internal Revenue Code (relating to powers of appointment) is hereby amended to read as follows:

(c) *Powers of appointment*—(1) *Exercise of general power of appointment created on or before October 21, 1942.* An exercise of a general power of appointment created on or before October 21, 1942, shall be deemed a transfer of property by the individual possessing such power; but the failure to exercise such a power or the complete release of such a power shall not be deemed an exercise thereof.

If before November 1, 1951, or within the time limited by paragraph (2) of section 452 (b) of the Revenue Act of 1942, as amended, in cases to which such paragraph is applicable, a general power of appointment created on or before October 21, 1942, shall have been partially released so that it is no longer a general power of appointment, the subsequent exercise of such power shall not be deemed to be the exercise of a general power of appointment.

(2) *Powers created after October 21, 1942.* The exercise of a general power of appointment created after October 21, 1942, or the release after May 31, 1951, of such a power, shall be deemed a transfer of property by the individual possessing such power. A disclaimer or renunciation of such a power of appointment shall not be deemed a release of such power.

(3) *Definition of general power of appointment.* For the purposes of this subsection the term "general power of appointment" means a power which is exercisable in favor of the individual possessing the power (hereafter in this paragraph referred to as the "possessor"), his estate, his creditors, or the creditors of his estate; except that—

(A) A power to consume, invade, or appropriate property for the benefit of the possessor which is limited by an ascertainable standard relating to the health, education, support, or maintenance of the possessor shall not be deemed a general power of appointment.

(B) A power of appointment created on or before October 21, 1942, which is exercisable by the possessor only in conjunction with another person shall not be deemed a general power of appointment.

(C) In the case of a power of appointment created after October 21, 1942, which is exercisable by the possessor only in conjunction with another person—

(i) If the power is not exercisable by the possessor except in conjunction with the creator of the power—such power shall not be deemed a general power of appointment;

(ii) If the power is not exercisable by the possessor except in conjunction with a person having a substantial interest, in the property subject to the power, which is adverse to exercise of the power in favor of the possessor—such power shall not be deemed a general power of appointment. For the purposes of this clause a person who, after the death of the possessor, may be possessed of a power of appointment (with respect to the property subject to the possessor's power) which he may exercise in his own favor shall be deemed as having an interest in the property and such interest shall be deemed adverse to such exercise of the possessor's power;

(iii) If (after the application of clauses (i) and (ii)) the power is a general power of appointment and is exercisable in favor of such other person—such power shall be deemed a general power of appointment only in respect of a fractional part of the property subject to such power, such part to be determined by dividing the value of such property by the number of such persons (including the possessor) in favor of whom such power is exercisable.

For the purposes of clauses (ii) and (iii) a power shall be deemed to be exercisable in favor of a person if it is exercisable in favor of such person, his estate, his creditors, or the creditors of his estate.

(4) *Creation of another power in certain cases.* If a power of appointment created after October 21, 1942, is exercised by creating another power of appointment which under the applicable local law can be validly exercised so as to postpone the vesting of any estate or interest in the property which was subject to the first power, or suspend the absolute ownership or power of alienation of such property, for a period ascertainable without regard to the date of the creation of the first power, such exercise of the first power shall, to the extent of the property subject to the second power, be deemed a transfer of property by the individual possessing such power.

(5) *Lapse of power.* The lapse of a power of appointment created after October 21, 1942, during the life of the individual possessing the power shall be considered a release of such power. The rule of the preceding sentence shall apply with respect to the lapse of powers during any calendar year only to the extent that the property which could have been appointed by exercise of such lapsed powers exceeds in value the greater of the following amounts:

(A) $5,000, or

(B) 5 per centum of the aggregate value of the assets out of which, or the proceeds of which, the exercise of the lapsed powers could be satisfied.

(b) *Date of creation of power.* For the purposes of this section a power of appointment created by a will executed on or before October 21, 1942, shall be considered a power created on or before such date if the person executing such will dies before July 1, 1949, without having republished such will, by codicil or otherwise, after October 21, 1942.

(c) *Effective date.* The amendments made by this section shall be effective as if made by section 452 (a), of the Revenue Act of 1942 on the date of its enactment (applicable with respect to gifts made in the calendar year 1943 and succeeding calendar years).

PAR. 3. Section 86.1, as amended by Treasury Decision 5833, approved March 8, 1951, is further amended as follows:

(A) By striking the word "The" at the beginning of the second sentence and inserting in lieu thereof "In general, the"; and

(B) By striking from such second sentence the portion beginning "releases before July 1, 1951" and ending "Revenue Act of 1942" and inserting in lieu thereof the following: "releases before June 1, 1951, of powers to appoint created after October 21, 1942, and releases before November 1, 1951, of powers to appoint created on or before October 21, 1942."

PAR. 4. Section 86.2 (b), as amended by Treasury Decision 5811, approved October 5, 1950, is further amended to read as follows:

(b) *Transfers under power of appointment*—(1) *In general.* Subject to the rules prescribed hereinafter, section 1000 (c) of the Internal Revenue Code treats as a taxable gift the exercise after December 31, 1942, of a general power of appointment created on or before October 21, 1942. Those provisions also treat as taxable gifts the exercise after December 31, 1942, of a general power of appointment, or the complete release after May 31, 1951, of a general power of appointment created after October 21, 1942, and the exercise of a power of appointment created after October 21, 1942, by the creation of another power of appointment. Specific rules applicable to certain powers created on or before October 21, 1942, are contained in subparagraph (4) of this paragraph, and subparagraph (5) of this paragraph contains the rules applicable to powers created after October 21, 1942. Specific rules relating to the exercise of powers created after October 21, 1942, by the creation of another power are contained in subparagraph (6) of this paragraph. Subparagraph (7) of this paragraph contains rules in respect of the exercise of a power after June 6, 1932, and before January 1, 1943.

(2) *Power of appointment.* (i) The term "power of appointment" includes all powers which are in substance and effect powers of appointment regardless of the nomenclature used in creating the power and regardless of local property law connotations. For example, if a transfer in trust provides that a beneficiary may appropriate or consume the principal of the trust, such power to consume or appropriate is a power of appointment. Similarly, a power given to a donee to alter, amend, revoke or terminate a trust is a power of appointment. If the community property laws of a state confer upon the wife a power of testamentary disposition over property in which she does not have a vested interest she is considered as having a power of appointment. A power in the possessor to remove or discharge a

trustee and appoint himself may be a power of appointment. For example, if under the terms of a trust, the trustee or his successor has the power to appoint the principal of the trust for the benefit of individuals including himself, and another person has the unrestricted power to remove or discharge the trustee at any time and appoint himself, such other person will be considered as possessing a power of appointment. On the other hand, the mere power of management, investment, or custody of assets, or the power to allocate receipts and disbursements as between income and principal, exercisable in a fiduciary capacity whereby the holder of the power has no power to enlarge or shift any of the beneficial interests therein is not a power of appointment. Further, the right in a beneficiary of a trust to assent to a periodic accounting thereby relieving the trustee from further accountability is not a power of appointment if such right of assent does not consist of any power or right to enlarge the beneficial interests of any beneficiary therein.

(ii) For the purposes of this section, the term "power of appointment" does not apply to a power reserved directly or indirectly, by a donor upon a transfer, as distinguished from a donated power of appointment received from another person. See § 86.3 with respect to the taxability of reserved powers.

(iii) No provision of section 1000 (c) or of this section is to be construed as in any way limiting the application of any other section of the Internal Revenue Code or of these regulations. For example, if under the terms of a trust A is given the income for life and the power to appoint the entire trust property by deed during her lifetime to a class consisting of her children and the further power to appoint the entire trust property by will to anyone including her estate and A exercises the inter vivos power in favor of her children, she is considered to effectuate a transfer of her income interest which constitutes a taxable gift under section 1000 (a). This transfer also results in a relinquishment of her general power to appoint the property by will. In case the power was created after October 21, 1942, such a transfer, if occurring after May 31, 1951, constitutes a taxable gift under section 1000 (c)

(iv) Where a power of appointment exists as to only part of an entire group of assets or only in respect of a limited interest in property, this section shall apply only to such part or interest.

(v) A power of appointment is exercised where the property subject thereto is appointed to the taker in default of appointment, regardless of whether or not the appointed interest and the interest in default are identical, and regardless of whether or not the appointee renounces any right to take under the appointment.

(3) *General power of appointment.* (i) For the purposes of this section the term "general power of appointment" except as limited hereinafter, means any power of appointment exercisable in favor of the person possessing the power (referred to as the "possessor") his estate, his creditors, or the creditors of his estate. A power of appointment exercisable to meet the estate tax, and any other taxes, debts and charges which are enforceable against the possessor or his estate is includible within the meaning of a power of appointment exercisable in favor of the possessor, his creditors, his estate or the creditors of his estate. A power of appointment exercisable for the purpose of discharging a legal obligation of the possessor or for his pecuniary benefit is considered a power of appointment exercisable in favor of the possessor or his creditors. However, for the purposes of this section, a power of appointment not otherwise considered to be a general power of appointment is not treated as a general power of appointment merely by reason of the fact that an appointee may, in fact, be a creditor of the possessor or his estate.

(ii) A power to consume, invade, or appropriate property for the benefit of the possessor which is limited by an ascertainable standard relating to health, education, support, or maintenance, shall not be deemed a power of appointment. Whether a power is limited by an ascertainable standard will be determined by applying the principles followed in ascertaining the extent to which, if any, a transfer to a trust for both private and charitable purposes is allowable as a deduction under section 1004 (a) (2). A power to consume, invade, or appropriate property for comfort, pleasure, desire, or happiness, is not a power limited by an ascertainable standard.

(4) *General powers of appointment created on or before October 21, 1942.* (i) In the case of a general power of appointment created on or before October 21, 1942, section 1000 (c) applies only if the power is exercised. Section 1000 (c) (3) (B) provides that a power created on or before October 21, 1942, which is exercisable by the possessor only in conjunction with another person, shall not be deemed a general power of appointment. See subparagraph (3) of this paragraph for definition of a general power of appointment. The failure to exercise such a power or the complete release at any time of such a power is not deemed to be an exercise thereof.

(ii) If, at the time he relinquishes a general power of appointment (or at any earlier date), the possessor exercises a power in such a manner or to such an extent that the relinquishment results in the reduction, enlargement, or shift in the beneficial interests in property, such relinquishment will be considered to be an exercise and not a release of a power. For example, assume that A created a trust, in 1940 providing for payment of the income to B for life with the power in B to alter or amend the trust, and for payment of the remainder to such persons as B shall appoint or, upon default of appointment, to C. If B amended the trust in 1948 by providing that upon his death the remainder was to be paid to C, and further amended the trust in 1950 by deleting his power to alter or amend the trust, the relinquishment will be considered an exercise and not a release of a general power of appointment. On the other hand, if B in 1948 merely amended the trust by changing the pure ministerial powers of the trustee, his relinquishment of the power in 1950 will be considered as a release of a power of appointment.

(iii) If a general power of appointment is partially released so that it is not thereafter a general power of appointment, a subsequent exercise of such partially released power shall not be deemed the exercise of a general power of appointment if such partial release occurs prior to whichever is the later of the following dates:

(*a*) November 1, 1951;

(*b*) If the decedent was under a legal disability to release such power on October 21, 1942, the day after the expiration of six months following the termination of such disability.

However, if the general power is partially released on or after November 1, 1951 (except where such partial release is effected within the period of six months following the termination of the legal disability referred to in the preceding sentence) and is thereafter exercised, such exercise will constitute the exercise of a general power of appointment.

(ii) The legal disability referred to is determined under local law and may include the disability of an insane person, a minor, or an unborn child. The fact that the type of general power of appointment possessed by the holder of the power actually was not generally releasable under the local law does not place the possessor under a legal disability within the meaning of this subdivision.

(iii) In general, it is assumed that all general powers of appointment are releasable unless the local law on the subject is to the contrary, and it is presumed that the method employed to release the power is effective, unless it is not in accordance with local law relating specifically to release or, in the absence of such local law, is not in accordance with local law governing similar transactions.

(iv) For purposes of section 1000 (c), a power to appoint created by a will executed on or before October 21, 1942, shall be considered a power created on or before such date if the person executing such will died before July 1, 1949, without having republished such will, by codicil or otherwise, after October 21, 1942.

(5) *General powers of appointment created after October 21, 1942*—(i) *In general.* Under section 1000 (c) (2) the exercise of a general power of appointment created after October 21, 1942, or the release of such a power after May 31, 1951, if such exercise or release is made without adequate and full consideration in money or money's worth, constitutes a gift by the possessor of the power. For definition of a general power of appointment, see subparagraph (3) of this paragraph. For treatment of joint powers, see subdivision (ii) of this subparagraph.

(ii) *Joint powers created after October 21, 1942.* The following rules shall apply with respect to a power of appointment created after October 21, 1942, which is exercisable only in conjunction with another person.

(*a*) Such a power shall not be considered as a general power of appoint-

ment if it is not exercisable by the possessor except with the consent or joinder of the creator of the power.

(b) Such a power shall not be considered as a general power of appointment if it is not exercisable by the possessor except with the consent or joinder of a person having a substantial interest in the property subject to the power which is adverse to the exercise of the power in favor of the possessor, his estate, his creditors, or the creditors of his estate. A taker in default of appointment has an interest which is adverse to such an exercise. A coholder of the power has no adverse interest merely because of his joint possession of the power nor merely because he is a permissible appointee under a power. However, a coholder of a power is considered as having an adverse interest where he may possess the power after the possessor's death and may exercise it at that time in favor of himself, his estate, his creditors, or the creditors of his estate. Thus, for example, if X, Y, and Z hold a power jointly to appoint among a group of persons which includes themselves and on the death of X the power will pass to Y and Z jointly, then Y and Z are considered to have interests adverse to the exercise of the power in favor of X.

(c) A power which is exercisable only in conjunction with another person and which after application of the rules set forth in (a) and (b) of this subdivision, constitutes a general power of appointment will be treated as though the holders of the power who are permissible appointees of the property were joint owners of property subject to the power. The possessor, under this rule, will be treated as possessed of a general power of appointment over an aliquot share of the property to be determined with reference to the number of joint holders, including the possessor, who (or whose estates or creditors) are permissible appointees. Thus, for example, if X, Y, and Z hold an unlimited power jointly to appoint among a group of persons, including themselves, but on the death of X the power does not pass to Y and Z jointly, then Y and Z are not considered to have interests adverse to the exercise of the power in favor of X. In this case, X is considered to possess a general power of appointment as to one-third of the property subject to the power.

(iii) *Releases and lapses of general powers of appointment.* (a) The general principles set forth in § 86.3 (a) for determining whether a donor of property has divested himself of the property to the extent necessary to effect a completed gift are applicable in determining whether a partial release of a power of appointment constitutes a taxable gift. Thus, if a general power of appointment is partially released so that thereafter the donor may still appoint among a limited class of persons not including himself such partial release does not effect a completed gift, since the possessor of the power has retained the right to designate the ultimate beneficiaries of the property over which he holds the power and since it is only the termination of such control which completes a gift. If a general power of appointment created after October 21, 1942, is partially released prior to June 1, 1951, so that thereafter it is no longer a general power of appointment, the subsequent exercise or release thereof will not constitute the exercise or release of a general power of appointment for purposes of gift tax. If a general power created after October 21, 1942, is partially released after May 31, 1951, the subsequent exercise or release thereof will constitute the exercise or release of a general power of appointment for purposes of gift tax.

(b) In general, a release of a power of appointment need not be formal or express in character. For example, the failure to exercise a power of appointment created after October 21, 1942, within a specified time, so that the power lapses, constitutes a release of the power. However, section 1000 (c) (5) provides that such a lapse shall be considered as a release so as to be subject to gift tax only to the extent that the property which could have been appointed by exercise of the power exceeds the greater of (1) $5,000, or (2) 5 percent of the aggregate value at the time of the lapse of the assets out of which, or the proceeds of which, the exercise of the lapsed powers could be satisfied. Thus, for example, if an individual has a noncumulative right to withdraw $10,000 a year from the principal of a trust fund, the failure to exercise this right of withdrawal in a particular year will not constitute a gift if the fund at the end of such year equals or exceeds $200,000. However, if at the end of the particular year the fund should be worth only $100,000, the failure to exercise the power will be considered a gift to the extent of $5,000, the excess of $10,000 over 5 percent of a fund of $100,000. Where the failure to exercise the power, such as the right of withdrawal, occurs in more than a single year, the value of the taxable transfer will be determined separately for each year.

(c) A disclaimer or renunciation of a general power of appointment is not considered to be a release of the power. The disclaimer or renunciation must be unequivocal and effective under local law. A disclaimer is a complete and unqualified refusal to accept the rights to which one is entitled. Such rights refer to the incidents of the power and not to other interests of the possessor of the power in the property. If effective under local law, the power may be disclaimed or renounced without disclaiming or renouncing such other interests. There can be no disclaimer or renunciation of a power after its acceptance. In the absence of facts to the contrary, the failure to renounce or disclaim within a reasonable time after learning of its existence will be presumed to constitute an acceptance of the power.

(6) *Successive powers.* Section 1000 (c) (4) provides for the imposition of gift tax on the value of property with respect to which a power of appointment (whether or not a general power) created after October 21, 1942, is exercised by creating another power of appointment which under the applicable local law can be validly exercised so as to postpone the vesting of any estate or interest in the property which was subject to the first power, or suspend the absolute ownership or power of alienation of such property, for a period ascertainable without regard to the date of the creation of the first power. For purposes of section 1000 (c) (4) the value of the property subject to the second power shall be considered to be such value unreduced by any precedent or subsequent interest which is not subject to such second power. Thus if a donor has a power to appoint $100,000 among a group consisting of his children or grandchildren and during his lifetime exercises such power by making an outright appointment of $75,000 and by giving one appointee a power to appoint $25,000, no more than $25,000 will be considered a gift under section 1000 (c) (4) If, however, the donor appoints the income from the entire fund to a beneficiary for life with power in the beneficiary to appoint the remainder, the entire $100,000 will be considered a gift under section 1000 (c) (4) if the exercise of the second power can validly postpone the vesting of any estate or interest in such property or can suspend the absolute ownership or power of alienation of such property for a period ascertainable without regard to the date of the creation of the first power.

(7) *Exercise of certain powers after June 6, 1932, and before January 1, 1943.* The exercise of a power of appointment after June 6, 1932, and before January 1, 1943, constitutes a gift by the individual possessing the power if the power is exercisable in favor of any person or persons in the discretion of such individual, or, however limited as to the persons or objects in whose favor the appointment may be made, if it is exercisable in favor of the individual possessing the power, his estate, his creditors, or the creditors of his estate.

PAR. 5. Section 86.3a (a) is amended by inserting in subparagraph (2) (iii) thereof immediately preceding "power of appointment" the word "general"

(53 Stat. 157, 467; 26 U. S. C. 1029, 3791)

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

Approved: July 7, 1954.

M. B. FOLSOM,
Acting Secretary of the Treasury.

[F. R. Doc. 54-5327; Filed, July 13, 1954; 8:47 a. m.]

Subchapter E—Administrative Provisions Common to Various Taxes

[T. D. 6060]

PART 458—INSPECTION OF RETURNS

INSPECTION OF CORPORATION INCOME TAX RETURNS BY THE FEDERAL TRADE COMMISSION

§ 458.303b *Inspection by Federal Trade Commission of corporation income tax returns.*[1] (a) Pursuant to the provisions of section 55 (a) of the Internal Revenue Code (53 Stat. 29; 54 Stat. 1008; 55 Stat. 722; 26 U. S. C. 55 (a)), and in

[1] See Title 3, Executive Order 10544, *supra.*

the interest of the internal management of the Government, corporation income tax returns made for the year 1953 and subsequent years shall be open to inspection by the Federal Trade Commission as an aid in executing the powers conferred upon such Commission by the Federal Trade Commission Act of September 26, 1914, 38 Stat. 717. The inspection of such returns herein authorized may be made by any officer or employee of the Federal Trade Commission duly authorized by the Chairman of the Federal Trade Commission to make such inspection. Upon written notice by the Chairman of the Federal Trade Commission to the Secretary of the Treasury, the Secretary or any officer or employee of the Treasury Department, with the approval of the Secretary of the Treasury, may furnish the Federal Trade Commission with any data on such returns or may make the returns available for inspection and the taking of such data as the Chairman of the Federal Trade Commission may designate. Such data shall be furnished, or such returns shall be made available for inspection, in the office of the Commissioner of Internal Revenue. Any information thus obtained shall be held confidential except to the extent that it shall be published or disclosed in statistical form, provided such publication shall not disclose, directly or indirectly, the name or address of any taxpayer.

(b) This Treasury decision shall be effective upon its filing for publication in the FEDERAL REGISTER.

G. M. HUMPHREY,
Secretary of the Treasury.

Approved: July 12, 1954.

DWIGHT D. EISENHOWER,
The White House.

[F. R. Doc. 54-5417; Filed, July 13, 1954; 9:41 a. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter I—Monetary Offices, Department of the Treasury

PART 54—GOLD REGULATIONS

The full text of the Gold Regulations (31 CFR Part 54) as hereby amended, is set forth below. These amendments incorporate into the Gold Regulations the following changes:

1. Section 54.8 (b) of the Regulations, which requires collectors of customs, upon receipt of instructions from the Secretary of the Treasury, to refuse entry of gold exported from countries specified in such instructions unless a certificate of lawful exportation from such country is furnished, and existing instructions issued pursuant to such section, are revoked.

2. A finding that all gold coins made prior to April 5, 1933 are of recognized special value to collectors of rare and unusual coin within the meaning of § 54.20 of the Gold Regulations, is incorporated into such section. The exportation of coins made before such date will be permitted without the necessity of obtaining a Treasury Gold License (§§ 54.20, 54.25 (b) (3))

3. The acquisition of retort sponge from miners by any person will be permitted in amounts not exceeding 200 troy ounces of fine gold content without obtaining a Treasury Gold License (§ 54.19).

4. The number of reports which must be submitted to the Director of the Mint by persons holding Treasury Gold licenses is reduced from four per year to two per year (§ 54.27)

5. The requirement that a license be obtained to export gold refined from imported gold bearing materials is eliminated. However, it will be necessary for the exporter to file with the collector of customs at the port of export a certificate, attesting that he has no interest in such gold and that he has complied with all other provisions relating to the export of such gold (§ 54.32).

6. The amount of gold which persons operating pursuant to the exemptions contained in §§ 54.18 and 54.21 may have on hand at any one time is raised from 35 ounces to 50 ounces. The monthly limitation contained in § 54.21 is raised from 250 ounces to 350 ounces.

7. The definition of fabricated gold is changed so as to include processed or manufactured gold which has a gold content, the value of which does not exceed 90 percent of the total domestic value of such processed or manufactured gold (§ 54.4) Formerly, fabricated gold was defined as having a gold content which did not exceed 80 percent of such total domestic value.

These amendments are issued after due consideration of all relevant views and material submitted pursuant to a notice of proposed rule making published in the FEDERAL REGISTER on May 8, 1954 (19 F. R. 2673) setting forth the substance and the text of the proposed rules and affording interested persons thirty days within which to submit their views in writing.

Accordingly, effective upon publication in the FEDERAL REGISTER, the Gold Regulations (31 CFR Part 54) are amended to read as follows:

SUBPART A—GENERAL PROVISIONS

Sec.
54.1 Authority for regulations.
54.2 General provisions.
54.3 Titles and subtitles.
54.4 Definitions.
54.5 General provisions affecting applications, statements, and reports.
54.6 General provisions affecting licenses and authorizations.
54.7 General provisions affecting export licenses.
54.8 General provisions affecting import licenses.
54.9 Forms available.
54.10 Representations by licensees.
54.11 Civil and criminal penalties.

SUBPART B—CONDITIONS UNDER WHICH GOLD MAY BE ACQUIRED AND HELD, TRANSPORTED, MELTED OR TREATED, IMPORTED, EXPORTED, OR EARMARKED

54.12 Conditions under which gold may be acquired, held, melted, etc.
54.13 Transportation of gold.
54.14 Gold situated outside of the United States.
54.15 Gold situated in the possessions of the United States.
54.16 Fabricated gold.
54.17 Metals containing gold.
54.18 Unmelted scrap gold.
54.19 Gold in its natural state.
54.20 Rare coin.

SUBPART C—GOLD FOR INDUSTRIAL, PROFESSIONAL, AND ARTISTIC USE

54.21 Fifty ounce exemption for processors.
54.22 Licenses required.
54.23 Issuance of licenses or general authorizations.
54.24 Applications.
54.25 Licenses.
54.26 Investigations; records; subpoenas.
54.27 Reports.

SUBPART D—GOLD FOR THE PURPOSE OF SETTLING INTERNATIONAL BALANCES, AND FOR OTHER PURPOSES

54.28 Acquisitions by Federal Reserve banks for purposes of settling international balances, etc.
54.29 Dispositions by Federal Reserve banks.
54.30 Provisions limited to Federal Reserve banks.

SUBPART E—GOLD FOR OTHER PURPOSES NOT INCONSISTENT WITH THE PURPOSES OF THE GOLD RESERVE ACT OF 1934 AND THE ACT OF OCTOBER 6, 1917, AS AMENDED

54.31 Licenses required.
54.32 Gold imported in gold-bearing materials for re-export.
54.33 Gold imported for re-export.
54.34 Licenses for other purposes.

SUBPART F—PURCHASE OF GOLD BY MINTS

54.35 Purchase by mints.
54.36 Gold recovered from natural deposits in the United States or any place subject to the jurisdiction thereof, including gold contained in deposits of newly mined domestic silver.
54.37 Gold contained in deposits of silver.
54.38 Scrap gold.
54.39 Gold refined from sweeps purchased from a United States mint.
54.40 Imported gold.
54.41 Gold refined from imported gold-bearing material.
54.42 Deposits.
54.43 Rejection of gold by mint.
54.44 Purchase price.

SUBPART G—SALE OF GOLD BY MINTS

54.51 Authorization to sell gold.
54.52 Sale price.

SUBPART H—TRANSITORY PROVISIONS

54.70 Legal effect of amendment of regulations.

AUTHORITY: §§ 54.1 to 54.70 issued under sec. 5 (b), 40 Stat. 415, as amended, secs. 3, 8, 9, 11, 48 Stat. 340, 341, 342; 12 U. S. C. 95a, 31 U. S. C. 442, 733, 734, 822b, E. O. 6260, Aug. 28, 1933; E. O. 6359, Oct. 25, 1933; E. O. 9193, as amended, 7 F. R. 5205; 3 CFR 1943 Cum. Supp., E. O. 10289, 16 F. R. 9499; 3 CFR 1951 Supp.

SUBPART A—GENERAL PROVISIONS

§ 54.1 *Authority for regulations.* By virtue of and pursuant to:

(a) The authority vested in the Secretary of the Treasury by the Gold Reserve Act of 1934, approved January 30, 1934 (48 Stat. 337; 31 U. S. C. 440) and the authority with respect to the approval of regulations issued thereunder which the President of the United States has delegated to the Secretary of the Treasury in paragraph 2 (d) of Executive Order No. 10289 of September 17, 1951 (16 F. R. 9501) and

(b) The authority which the President of the United States has delegated

to the Secretary of the Treasury by Executive Orders Nos. 6260 of August 28, 1933 (31 CFR 1938 ed. Part 50) 6359 of October 25, 1933 and 9193 of July 6, 1942, as amended (7 F R. 5205, 3 CFR 1943 Cum. Supp.) which delegations were made by the President of the United States by virtue of and pursuant to the authority vested in him by section 5 (b) of the act of October 6, 1917 (40 Stat. 415) as amended by section 2 of the act of March 9, 1933 (48 Stat. 1) and title III, section 301 of the "First War Powers Act, 1941" (55 Stat. 839; 12 U. S. C. 95a) and all other authority vested in him, the following regulations, entitled "Gold Regulations," deemed in the public interest and necessary and proper to carry out the purposes of said acts and Executive orders, are issued by the Secretary of the Treasury.

§ 54.2 *General provisions*—(a) *Scope.* Sections 54.12 to 54.34 refer particularly to section 3 of the Gold Reserve Act of 1934, as amended, and to Executive Order No. 6260 of August 28, 1933, sections 4, 5, and 6 of the Executive Order No. 6359 of October 25, 1933, and Executive Order No. 9193 of July 6, 1942, as amended; and §§ 54.35 to 54.52 refer particularly to sections 8 and 9 of the Gold Reserve Act of 1934, as amended.

(b) *Delivery requirements of 1933 gold orders.* Executive Order 6102 of April 5, 1933, Executive Order 6260 of August 28, 1933 (31 CFR 1938 ed. Part 50) and the order of the Secretary of the Treasury of December 28, 1933, as amended and supplemented, required that, with certain exceptions, all persons subject to the jurisdiction of the United States deliver to the United States gold coins, gold bullion and gold certificates situated in the United States and held or owned by such persons on the dates of such orders. Gold coins having a recognized special value to collectors of rare and unusual coin, including all gold coins made prior to April 5, 1933, have been exempted from such delivery requirement. The regulations in this part do not alter or affect in any way the requirements under said orders to deliver gold bullion and gold certificates and gold bullion and gold certificates required to be delivered pursuant to such orders are still required to be delivered and may be received in accordance with the Instructions of the Secretary of the Treasury of January 17, 1934 (§ 53.1 of this chapter) subject to the rights reserved in such instructions.

(c) *Effect of authorizations and licenses.* (1) A general authorization contained in, or a license issued pursuant to the regulations in this part, permitting the acquisition, holding, transporting, melting or treating, importing, exporting or earmarking of gold, constitutes within the limits and subject to the terms and conditions thereof a license issued under and pursuant to Executive Order No. 6260 of August 28, 1933, for such acquisition, holding, transporting, etc.

(2) Any authorization in the regulations in this part, or in any license issued hereunder to acquire, hold, transport, melt or treat, import or export gold in any form shall not be deemed to authorize, unless it specifically so provides, the acquisition, holding, transporting, melting or treating, importing, or exporting of the following:

(i) Any gold coin (except rare gold coin as defined in § 54.20) or any gold melted by any person from gold coin subsequent to April 5, 1933.

(ii) Any gold which has been held at any time in noncompliance with the acts, the orders, or any regulations, rulings, instructions or licenses issued thereunder, including the regulations in this part, or in noncompliance with section 3 of the act of March 9, 1933, or any orders, regulations, rulings, or instructions issued thereunder.

(d) *Revocation or modification.* The provisions of this part may be revoked or modified at any time and any license outstanding at the time of such revocation or modification shall be modified thereby to the extent provided in such revocation or modification.

§ 54.3 *Titles and subtitles.* The titles in this part are inserted for purposes of ready reference and are not to be construed as constituting a part of the regulations in this part.

§ 54.4 *Definitions.* (a) As used in this part, the terms:

(1) "The acts" means the Gold Reserve Act of 1934, as amended, and section 5 (b) of the act of October 6, 1917, as amended by section 2 of the act of March 9, 1933 and Title III, section 301 of the "First War Powers Act, 1941" approved December 18, 1941.

(2) "The orders" means Executive Orders Nos. 6260 of August 28, 1933; 6359 of October 25, 1933; and 9193 of July 6, 1942, as amended.

(3) "United States" means the Government of the United States, or where used to denote a geographical area, means the continental United States and all other places subject to the jurisdiction of the United States.

(4) "Continental United States" means the States of the United States, the District of Columbia, and the Territory of Alaska.

(5) "Person" means any individual, partnership, association, or corporation, including the Board of Governors of the Federal Reserve System, Federal Reserve banks, and Federal Reserve agents.

(6) "Mint" means a United States mint or assay office, and wherever authority is conferred upon a "mint" such authority is conferred upon the person locally in charge of the respective United States mint or assay office acting in accordance with the instructions of the Director of the Mint or the Secretary of the Treasury.

(7) "Gold coin" means any coin containing gold as a major element, including gold coin of a foreign country.

(8) "Gold bullion" means any gold which has been put through a process of smelting or refining, and which is in such state or condition that its value depends primarily upon the gold content and not upon its form; the term "gold bullion" includes, but not by way of limitation, semi-processed gold and scrap gold, but it does not include fabricated gold as defined in this section, metals containing less than 5 troy ounces of fine gold per short ton, or unmelted gold coin.

(9) Fabricated and semi-processed gold:

(i) "Fabricated gold" means processed or manufactured gold in any form (other than gold coin or scrap gold) which:

(*a*) Has a gold content the value of which does not exceed 90 percent of the total domestic value of such processed or manufactured gold; and

(*b*) Has, in good faith, and not for the purpose of evading or enabling others to evade the provisions of the acts, the orders, or the regulations in this part, been processed or manufactured for some one or more specific and customary industrial, professional or artistic uses.

(ii) "Semi-processed gold" means processed or manufactured gold in any form (other than gold coin or scrap gold) which:

(*a*) Has a gold content the value of which exceeds 90 percent of the total domestic value of such processed or manufactured gold; and

(*b*) Has, in good faith, and not for the purpose of evading or enabling others to evade the provisions of the acts, the orders, or the regulations in this part, been processed or manufactured for some one or more specific and customary industrial, professional or artistic uses.

(iii) The value of the gold content of an article shall be computed for the purposes of this subparagraph at $35 per troy ounce of fine gold content.

(iv) For the purpose of this subparagraph, the total domestic value of processed or manufactured gold shall be based on the cost to the owner and not the selling price. The allowable elements of such value are:

(*a*) In the case of a manufacturer or processor, only the cost of material in the article, labor performed on the article, and processing losses and overhead applicable to the manufacture or processing of such article; and

(*b*) In the case of a dealer or other person who holds or disposes of gold without further processing, only the net purchase price paid by such person, including transportation costs, if any, incurred in obtaining delivery of such article to his usual place of business.

(10) "Scrap gold" means gold filings, clippings, polishings, sweepings and the like and any other melted or unmelted scrap gold, semiprocessed gold or fabricated gold, the value of which depends primarily upon its gold content and not upon its form, which is no longer held for the use for which it was processed or manufactured.

(11) "Gold in its natural state" means gold recovered from natural sources which has not been melted, smelted, or refined, or otherwise treated by heating or by a chemical or electrical process.

(12) "Hold" when used with reference to gold includes actual or constructive possession of or the retention of any interest, legal or equitable, in such gold, and includes, but not by way of limitation, acts of agency with respect thereto although the principal be unknown.

(b) Wherever reference is made in this part to equivalents as between dollars or currency of the United States and gold, $1 or $1 face amount of any currency of the United States equals fifteen

and five twenty-firsts (15 5/21 grains of gold, nine-tenths fine.

(c) Wherever reference is made in this part to "sections" the reference is, unless otherwise indicated, to the designated sections of this part.

§ 54.5 *General provisions affecting applications, statements, and reports.* Every application, statement, and report required to be made under this part shall be made upon the appropriate form prescribed by the Secretary of the Treasury. Action upon any application or statement may be withheld pending the furnishing of any or all of the information required in such forms or of such additional information as may be deemed necessary by the Secretary of the Treasury, or the agency authorized or directed to act under this part. There shall be attached to the applications, statements, or reports such instruments as may be required by the terms thereof and such further instruments as may be required by the Secretary of the Treasury, or by such agency.

§ 54.6 *General provisions affecting licenses and authorizations.* (a) Licenses issued pursuant to the regulations in this part shall be upon the appropriate form prescribed by the Secretary of the Treasury. Licenses shall be nontransferable and shall entitle the licensee to acquire, hold, transport, melt or treat, import, export, or earmark gold only in such form and to the extent permitted by, and subject to the conditions prescribed in, the regulations in this part and such licenses.

(b) Revocation or modification of licenses:[1] Licenses may be modified or revoked at any time in the discretion of the Director of the Mint. In the event that a license is modified or revoked (other than by a modification or revocation of the regulations in this part) the Director of the Mint shall advise the licensee by letter, mailed to the last address of the licensee on file in the Bureau of the Mint. The licensee, upon receipt of such advice, shall forthwith surrender his license as directed. If the license has been modified but not revoked, the Director of the Mint shall thereupon issue or cause to be issued a modified license.

(c) Exclusions: The Director of the Mint may exclude particular persons or classes thereof from the operation of any section of the regulations in this part (except §§ 54.28 to 54.30, inclusive) or licenses issued thereunder or from the privileges therein conferred. Such action shall be binding upon all persons receiving actual notice or constructive notice thereof. Any violation of the provisions of the regulations in this part or any license issued hereunder, shall constitute, but not by way of limitation, grounds for such exclusion.

(d) Requests for reconsideration: A written request for reconsideration of a denial of an application for a license, of a revocation, suspension, or modification of an existing license, or of an exclusion from the authorizations or privileges conferred in any section of the regulations in this part setting forth in detail the reasons for such request, may be addressed to the Director of the Mint, Treasury Department, Washington 25, D. C. In addition, upon written request, the Director will schedule a hearing in the matter at which time there may be brought to the attention of the Bureau of the Mint any information bearing thereon.

(e) No license issued hereunder shall exempt the licensee from the duty of complying with the legal requirements of any State or Territory or local authority.

(f) No license shall be issued to any person doing business under a name which in the opinion of the Secretary of the Treasury or the designated agency issuing the license, is designed or is likely to induce the belief that gold is purchased, treated, or sold on behalf of the United States or for the purpose of carrying out any policy of the United States.

§ 54.7 *General provisions affecting export licenses.*[2] At the time any license to export gold is issued, the Bureau of the Mint, or Federal Reserve bank issuing the same, shall transmit a copy thereof to the collector of customs at the port of export designated in the license. No collector of customs shall permit the export or transportation from the continental United States of gold in any form except upon surrender of a license to export, a copy of which has been received by him from the agency issuing the same (except that licenses on Form TGL-15 (general) covering multiple shipments during a quarterly period are retained by the licensees until the expiration of such period, when they are returned to the Director of the Mint) *Provided, however,* That the export or transportation from the continental United States of fabricated gold may be permitted pursuant to § 54.25 (b) (2) and the export or transportation from the continental United States of gold imported for re-export may be permitted pursuant to §§ 54.32 and 54.33: *And provided further,* That gold held by the Federal Reserve banks under §§ 54.28 to 54.30, inclusive, may be exported for the purposes of such sections without a license. The collector of customs to whom a license to export is surrendered shall cancel such license and return it to the Director of the Mint or to the Mint or the Federal Reserve bank which issued the same. In the event that the shipment is to be made by mail, a copy of the export license shall be sent by the agency issuing the same to the postmaster of the post office designated in the application, who will act under the instructions of the Postmaster General in regard thereto.

§ 54.8 *General provisions affecting import licenses.* No gold in any form imported into the United States shall be permitted to enter until the person importing such gold shall have satisfied the collector of customs at the port of entry that he holds a license authorizing him to import such gold or that such gold may be imported without a license under the provisions of §§ 54.12 to 54.21, inclusive, or §§ 54.28 to 54.30, inclusive. Postmasters receiving packages containing gold will deliver such gold subject to the instructions of the Postmaster General.

§ 54.9 *Forms available.* Any form, the use of which is prescribed in this part, may be obtained at, or on written request to, any United States mint or assay office, or the Director of the Mint, Treasury Department, Washington 25, D. C.

§ 54.10 *Representations by licensees.* Licensees may include in public and private representations or statements the clause "licensed on form TGL____ (here inserting the number of the form of license held by the licensee) pursuant to the regulations issued by the Secretary of the Treasury," but any representation or statement which might induce the belief that the licensee is acting or is especially privileged to act on behalf of or for the United States, or is purchasing, treating, or selling gold for the United States, or in any way dealing in gold for the purpose of carrying out any policy of the United States, shall be a violation of the conditions of the license.

(a) *Business names and representations generally.* No person doing business under a name which is designed or is likely to induce the belief that gold is being purchased, treated, or sold on behalf of the United States, or any agency thereof, or for the purpose of carrying out any policy of the United States, or making representations or statements which might induce the belief that such person is acting or is especially privileged to act on behalf of or for the United States, or is purchasing, treating, or selling gold for the United States, or in any way dealing in gold for the purpose of carrying out any policy of the United States, may acquire, hold, transport, melt, or treat, import, export or earmark any gold under authority of §§ 54.12 to 54.20, inclusive, or §§ 54.21 to 54.27, inclusive.

§ 54.11 *Civil and criminal penalties—*(a) *Civil penalties.* Attention is directed to section 4 of the Gold Reserve Act of 1934, which provides:

Any gold withheld, acquired, transported, melted or treated, imported, exported, or earmarked or held in custody, in violation of this Act or of any regulations issued hereunder, or licenses issued pursuant thereto, shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law; and in addition any person failing to comply with the provisions of this Act or of any such regulations or licenses,

[1] Regulations governing procedures for denying an application for a license, for revoking, suspending or modifying a license, and for excluding any person from the privileges conferred in the regulations in this part are set forth in § 92.31 of this chapter.

[2] The regulations in this part shall not be construed as relieving any person from the obligation of compliance with the regulations of the Bureau of Foreign Commerce (formerly the Office of International Trade), (15 CFR Parts 360 to 399), the Bureau of Customs (19 CFR Chapter I), or other laws or regulations relating to the importation or exportation of merchandise, where applicable to imports or exports of gold, or articles containing gold.

shall be subject to a penalty equal to twice the value of the gold in respect of which such failure occurred (31 U. S. C. 443).

(b) *Criminal punishment.* Attention is also directed to (1) section 5 (b) of the act of October 6, 1917, as amended, which provides in part:

Whoever wilfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than $10,000 or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. As used in this subdivision the term "person" means an individual, partnership, association, or corporation (12 U. S. C. 95a (3)).

This section of the act of October 6, 1917, as amended, is applicable to violations of any provisions of this part and to violations of the provisions of any license, ruling, regulation, order, direction, or instructions issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to the regulations in this part or otherwise under section 5 (b) of the act of October 6, 1917, as amended.

(2) Section 1001 of the United States Criminal Code, which provides:

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and wilfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both (18 U. S. C. 1001).

SUBPART B—CONDITIONS UNDER WHICH GOLD MAY BE ACQUIRED AND HELD, TRANSPORTED, MELTED OR TREATED, IMPORTED, EXPORTED OR EARMARKED

§ 54.12 *Conditions under which gold may be acquired, held, melted, etc.* Gold in any form may be acquired, held, transported, melted or treated, imported, exported, or earmarked only to the extent permitted by and subject to the conditions prescribed in the regulations in this part or licenses issued thereunder.

§ 54.13 *Transportation of gold.* Gold may be transported by carriers for persons who are licensed to hold and transport such gold or who are permitted by the regulations in this part to hold and transport gold without a license.

§ 54.14 *Gold situated outside of the United States.* Gold in any form situated outside of the United States may be acquired, transported, melted or treated, or earmarked or held in custody for foreign or domestic account without the necessity of holding a license.

§ 54.15 *Gold situated in the possessions of the United States.* Gold in any form (other than United States gold coin) situated in places subject to the jurisdiction of the United States beyond the limits of the continental United States may be acquired, transported, melted or treated, imported, exported, or earmarked or held in custody for the account of persons other than residents of the continental United States, by persons not domiciled in the continental United States: *Provided, however* That gold may be transported from the continental United States to the possessions of the United States only as authorized by §§ 54.25, 54.32, 54.33, or 54.34, or licenses issued pursuant thereto.

§ 54.16 *Fabricated gold.* Fabricated gold as defined in § 54.4 may be acquired, held, transported within the United States or imported without the necessity of holding a license therefor. Fabricated gold may be exported only as authorized in § 54.25 or in a license issued pursuant to that section.

§ 54.17 *Metals containing gold.* Metals containing not more than 5 troy ounces of fine gold per short ton may be acquired, held, transported within the United States, or imported without the necessity of holding a license therefor. Such metals may be melted or treated, and exported only to the extent permitted by and subject to the conditions prescribed in or pursuant to §§ 54.21 to 54.27, inclusive.

§ 54.18 *Unmelted scrap gold.* Unmelted scrap gold may be acquired, held, transported within the United States, or imported, in amounts not exceeding at any one time 50 fine troy ounces of gold content without the necessity of holding a license therefor. Persons holding licenses issued pursuant to paragraph (a) of § 54.25, or acquiring, transporting, importing or holding gold pursuant to § 54.21, may not acquire, transport, import or hold any gold under authority of this section.

§ 54.19 *Gold in its natural state.* (a) Gold in its natural state, as defined in § 54.4, may be acquired, transported within the United States, imported, or held in custody for domestic account only, without the necessity of holding a license therefor.

(b) Gold amalgam which results from the addition of mercury to gold in its natural state, recovered from natural deposits in the United States or a place subject to the jurisdiction thereof, may be heated to a temperature sufficient to separate the mercury from the gold (but not to the melting temperature of gold) without a license by the person who recovered the gold from such deposits, or his duly authorized agent or employee. The retort sponge so resulting may be held and transported by such person without a license: *Provided, however* That no such person may hold at any one time an amount of such retort sponge which exceeds in fine gold content 200 troy ounces. Such retort sponge may be acquired from such persons:

(1) By the United States;

(2) By persons holding licenses issued pursuant to paragraph (a) of § 54.25;

(3) By other persons provided that the aggregate amount of such retort sponge acquired and held by such other persons does not exceed at any one time 200 fine troy ounces of gold content.

(c) Persons acquiring retort sponge under paragraph (b) (3) of this section are authorized to dispose of such retort sponge only to the United States and to persons holding licenses issued pursuant to paragraph (a) of § 54.25.

(d) Except as provided in §§ 54.12 to 54.20, inclusive, and in §§ 54.32 and 54.33, gold in its natural state may be melted or treated or exported only to the extent permitted by, and subject to the conditions prescribed in, or pursuant to, §§ 54.21 to 54.27, inclusive.

§ 54.20 *Rare coin.* (a) Gold coin of recognized special value to collectors of rare and unusual coin may be acquired and held, transported within the United States, or imported without the necessity of holding a license therefor. Such coin may be exported, however, only in accordance with the provisions of § 54.25.

(b) Gold coin made prior to April 5, 1933, is considered to be of recognized special value to collectors of rare and unusual coin.

(c) Gold coin made subsequent to April 5, 1933, is presumed not to be of recognized special value to collectors of rare and unusual coin.

SUBPART C—GOLD FOR INDUSTRIAL, PROFESSIONAL, AND ARTISTIC USE

§ 54.21 *Fifty ounce exemption for processors.* (a) Subject to the conditions in paragraph (b) of this section, any person regularly engaged in an industry, profession, or art, who requires gold for legitimate, customary, and ordinary use therein, may, without the necessity of obtaining a Treasury gold license:

(1) Import unmelted scrap gold or acquire gold in any form from any person authorized to hold and dispose of gold in such form and amount under the regulations in this part or a license issued pursuant hereto;

(2) Hold, transport, melt, and treat such gold;

(3) Furnish unmelted scrap gold to the United States, to persons operating pursuant to §§ 54.18 or 54.21, or to the holder of a license issued pursuant to paragraph (a) of § 54.25; and

(4) Furnish melted scrap gold to the United States or to the holder of a license issued pursuant to paragraph (a) of § 54.25 which authorizes the acquisition of such melted scrap gold.

(b) The privileges of paragraph (a) of this section are granted subject to the following conditions:

(1) That the aggregate amount of such gold acquired, held, transported, melted and treated, and imported, does not exceed, at any one time, 50 fine troy ounces of gold content (not including gold which may be acquired, held, etc., without a license under any other section of this part, except § 54.18),

(2) That the aggregate amount of such gold acquired, held, transported, melted and treated, and imported, does not exceed, in any calendar month 350 fine troy ounces of gold content (not including gold which may be acquired, held, etc., without a license under any other section of this part, except § 54.18)

(3) That such gold is acquired and held only for processing into fabricated gold, as defined in § 54.4, by such person

in the industry, profession, or art in which he is engaged; and

(4) That full and exact records are kept and furnished in compliance with § 54.26.

(c) Persons acquiring, holding, transporting, melting and treating, and importing gold under authority of this section are not authorized:

(1) To consign gold bullion, including semi-processed gold, to other persons for processing except that scrap gold may, for processing and return in semi-processed form, be consigned to the holder of a license issued pursuant to paragraph (a) of § 54.25, which authorizes the acquisition and melting and treating of such gold;

(2) To furnish melted scrap gold to persons operating pursuant to the provisions of this section or § 54.18;

(3) To dispose of gold held under authority of this section otherwise than in the form of fabricated gold or scrap gold.

(d) Persons holding licenses issued pursuant to paragraph (a) of § 54.25 or acquiring, holding, transporting, or importing, gold pursuant to § 54.18 may not acquire, hold, transport, melt or treat, or import, any gold under authority of this section.

§ 54.22 *Licenses required.* Except as permitted in §§ 54.12 to 54.20, inclusive, and § 54.21, gold may be acquired and held, transported, melted or treated, imported, exported or earmarked for industrial, professional or artistic use only to the extent permitted by licenses issued under § 54.25.

§ 54.23 *Issuance of licenses or general authorizations.* The Director of the Mint may issue or cause to be issued licenses or other authorizations permitting the acquisition and holding, transportation, melting and treating, importing and exporting of gold which the Director is satisfied is required for legitimate and customary use in industry, profession, or art, by persons regularly engaged in the business of furnishing or processing gold for industry, profession, or art, or for sale to the United States.

§ 54.24 *Applications.* Every application for a license under paragraph (a) of § 54.25 shall be made on Form TG–12 (except that applications for export licenses shall be made on Form TG–15) and shall be filed in duplicate with the Director of the Mint, Treasury Department, Washington, D. C. Every applicant for a license under paragraph (a) of § 54.25 shall state in his application whether or not any applications have been filed by or licenses issued to any partnership, association, or corporation in which the applicant has a substantial interest or, if the applicant is a partnership, association, or corporation, by or to a person having a substantial interest in such partnership, association or corporation. The Director of the Mint shall not issue any license to any person if in the judgment of the Director more than one license for the same purpose will be held for the principal use or benefit of the same persons or interests. Any person licensed under this subpart acquiring a principal interest in any partnership, association, or corporation, holding a license under this subpart for this purpose shall immediately so inform the Director of the Mint.

§ 54.25 *Licenses*—(a) *Licenses for the acquisition and holding, transportation, melding and treating, importing and disposition of gold.* (1) Upon receipt of the application and after obtaining such additional information as may be deemed advisable, the Director of the Mint, shall, if satisfied that gold is necessary for the legitimate and customary requirements of the applicant's industry, profession, art, or business, and that the applicant is qualified in all respects to conduct gold operations in full compliance with the provisions of this part and the provisions of a Treasury gold license, issue or cause to be issued to the applicant a Treasury gold license on the approved form for the kind of industry, profession, art, or business, in which the applicant is engaged.

(2) Licenses issued under this section may authorize the licensee to acquire and hold not to exceed a maximum amount specified therein; to transport such gold, melt or treat it to the extent necessary to meet the requirements of the industry, profession, art or business for which it was acquired and held or otherwise to carry out the purposes for which it is held under license; and to import gold so long as the aggregate amount of all gold held after such importation does not exceed the maximum amount authorized by the license to be held.

(3) Licenses issued under this paragraph do not permit the exportation or transportation from the continental United States of gold in any form. Such exportation or transportation is permitted only to the extent authorized in paragraph (b) of this section or in a separate license issued pursuant to such paragraph.

(b) *Licenses and authorizations for the exporting of gold*—(1) *Semi-processed gold.* Semi-processed gold as defined in § 54.4 may be exported or transported from the continental United States only pursuant to a separate export license. Such licenses shall be issued by the Director of the Mint upon application made on Form TG–15 establishing to the satisfaction of the Director that the gold to be exported is semi-processed gold and that the export or transport from the continental United States is for a specific and customary industrial, professional, or artistic use and not for the purpose of using or holding or disposing of such semi-processed gold beyond the limits of the continental United States as, or in lieu of money, or for the value of its gold content.

(2) *Fabricated gold.* Fabricated gold as defined in § 54.4 may be exported or transported from the continental United States without the necessity of obtaining a Treasury gold license: *Provided, however* That the Bureau of the Census Schedule B statistical classification number of each specific commodity to be exported shall be plainly marked on the outside of the package or container, the shipper's export declaration shall contain a statement that such gold is fabricated gold as defined in § 54.4 and is being exported pursuant to the authorization contained in this subparagraph, and such additional documentation shall be furnished as may be required by the Bureau of Customs or any other government agency charged with the enforcement of laws relating to the exportation of merchandise from the United States.

(3) *Rare coin.* (i) Rare gold coin, as defined in § 54.20, made prior to April 5, 1933, may be exported or transported from the continental United States without the necessity of obtaining a Treasury gold license: *Provided, however* That the shipper's export declaration shall contain a statement that such coin is rare gold coin and is being exported pursuant to the authorization contained in this subparagraph and such additional documentation shall be furnished as may be requested by the Bureau of Customs or any other government agency charged with the enforcement of laws relating to the exportation of merchandise from the United States.

(ii) Gold coin made subsequent to April 5, 1933, may be exported or transported from the continental United States only under license on Form TGL–11 issued by the Director of the Mint. Application for such a license shall be executed on Form TG–11 and filed with the Director of the Mint, Treasury Department, Washington 25, D. C.

(4) *Other exports of gold.* Export licenses may also be issued upon application made on Form TG–15B in the same manner as prescribed in subparagraph (1) of this paragraph, authorizing the exportation of gold in any form for refining or processing subject to the condition that the refined or processed gold (or the equivalent in refined or processed gold) be returned to the United States, or subject to such other conditions as the Director may prescribe.

§ 54.26 *Investigations; records; subpoenas.* (a) The Director of the Mint is authorized to make or cause to be made such studies and investigations, to conduct such hearings, and to obtain such information as the Director deems necessary or proper to assist in the consideration of any applications for licenses, or in the administration and enforcement of the acts, the orders, and the regulations in this part.

(b) Every person holding a license issued under paragraph (a) of § 54.25, or acquiring, holding or disposing of gold pursuant to the authorizations in §§ 54.18 and 54.21, shall keep full and accurate records of all his operations and transactions with respect to gold, and such records shall be available for examination by a representative of the Treasury Department until the end of the third calendar year (or if such person's accounts are kept on a fiscal year basis, until the end of the third fiscal year) following such operations or transactions. The records required to be kept by this section shall include the name, address, and Treasury gold license number of each person from whom gold is acquired or to whom gold is delivered, and the amount, date, description and purchase or sales price of each such acquisition and delivery, and any other

records or papers required to be kept by the terms of a Treasury Department gold license. If the person from whom gold is acquired, or to whom gold is delivered, does not have a Treasury gold license such records shall show, in lieu of the license number of such person, the section of the regulations in this part pursuant to which such gold was held or acquired by such person. Such records shall also show all costs and expenses entering into the computation of the total domestic value of articles of fabricated or semi-processed gold as defined in § 54.4.

(c) The Director of the Mint (or the officers and employees of the Bureau of the Mint specifically designated by the Director) or any department or agency charged with the enforcement of the acts, the orders, or the regulations in this part, may require any person to permit the inspection and copying of records and other documents and the inspection of inventories of gold and to furnish, under oath or affirmation or otherwise, complete information relative to any transaction referred to in the acts, the orders, or the regulations in this part involving gold or articles manufactured from gold. The records which may be required to be furnished shall include any records required to be kept by this section and, to the extent that the production of such information is necessary and appropriate to the enforcement of the provisions of the acts, the orders, and the regulations in this part, or licenses issued thereunder, any other records, documents, reports, books, accounts, invoices, sales lists, sales slips, orders, vouchers, contracts, receipts, bills of lading, correspondence, memoranda, papers and drafts, and copies thereof, either before or after the completion of the transaction to which such records refer.

(d) The Director of the Mint may administer oaths and affirmations and may, whenever necessary, require any person holding a license under § 54.25 or acquiring, holding or disposing of gold pursuant to the authorizations of §§ 54.18 or 54.21, or any officer, director, or employee of such person, to appear and testify or to appear and produce any of the records specified in paragrah (c) of this section or both, at any designated place.

§ 54.27 *Reports.* Every person holding a license issued pursuant to paragraph (a) of § 54.25 shall make reports on the appropriate report form specified in such license for the six months' periods ending on the last days of June and December, respectively, and shall file such reports with the Director of the Mint, Treasury Department, Washington 25, D. C. Reports shall be filed within twenty-five days after the termination of the period for which such reports are made.

SUBPART D—GOLD FOR THE PURPOSE OF SETTLING INTERNATIONAL BALANCES AND FOR OTHER PURPOSES

§ 54.28 *Acquisitions by Federal Reserve banks for purposes of settling international balances, etc.* The Federal Reserve banks may from time to time acquire from the United States by redemption of gold certificates in accordance with section 6 of the Gold Reserve Act of 1934 such amounts of gold bullion as, in the judgment of the Secretary of the Treasury, are necessary to settle international balances or to maintain the equal purchasing power of every kind of currency of the United States. Such banks may also acquire gold (other than United States gold coin) abroad or from private sources within the United States.

§ 54.29 *Dispositions by Federal Reserve banks.* The gold acquired under § 54.28 may be held, transported, imported, exported, or earmarked for the purposes of settling international balances or maintaining the equal purchasing power of every kind of currency of the United States: *Provided,* That if the gold is not used for such purposes within 6 months from the date of acquisition, it shall (unless the Secretary of the Treasury shall have extended the period within which such gold may be so held) be paid and delivered to the Treasurer of the United States against payment therefor by credits in equivalent amounts in dollars in the accounts authorized under the sixteenth paragraph of section 16 of the Federal Reserve Act, as amended (48 Stat. 339; 12 U. S. C. 467)

§ 54.30 *Provisions limited to Federal Reserve banks.* The provisions of this subpart shall not be construed to permit any person subject to the jurisdiction of the United States, other than a Federal Reserve bank, to acquire gold for the purposes specified in this subpart or to permit any person to acquire gold from a Federal Reserve bank except to the extent that his license issued under this part specifically so provides.

SUBPART E—GOLD FOR OTHER PURPOSES NOT INCONSISTENT WITH THE PURPOSES OF THE GOLD RESERVE ACT OF 1934 AND THE ACT OF OCTOBER 6, 1917, AS AMENDED

§ 54.31 *Licenses required.* Gold may be acquired and held, transported, melted or treated, imported, exported, or earmarked for purposes other than those specified in §§ 54.21 to 54.30, inclusive, not inconsistent with the purposes of the acts only to the extent permitted in §§ 54.12 to 54.20 inclusive, and § 54.32, or under a license issued under §§ 54.33 or 54.34.

§ 54.32 *Gold imported in gold-bearing materials for re-export.* (a) Gold refined (or the equivalent to gold refined) from gold-bearing materials imported into the United States for refining and re-export may be re-exported to the foreign exporter or pursuant to his order, without the necessity of obtaining a Treasury gold export license, subject to the following conditions:

(1) The imported gold-bearing material either (i) was imported into the United States from a foreign resident or a foreign organization, or (ii) was mined by a branch or other office of a United States organization and imported into the United States from such branch or office;

(2) The importer has no right, title, or interest in the gold refined from the imported gold-bearing material other than through its branch or office which is the foreign exporter as provided in subparagraph (1) (i) and (ii) of this paragraph, and the importer will not participate in the sale of such refined gold or receive any commission in connection with the sale of such refined gold;

(3) The refined gold is to be re-exported to the foreign exporter or, pursuant to his order, to a foreign resident or foreign organization; and

(4) Such gold is imported, acquired, and held, transported, melted and treated, as permitted in §§ 54.12 to 54.20, inclusive, or in accordance with a license issued under § 54.25, and in full compliance with the provisions of paragraph (b) of this section.

(b) *Procedural requirements.* Persons exporting gold pursuant to paragraph (a) of this section shall comply with the following requirements:

(1) *Notation upon entry.* Upon the formal entry into the United States of any gold-bearing materials, the importer shall declare to the collector of customs at the port where the material is formally entered that the importation is made with the intention of exporting the gold refined therefrom to the foreign exporter, or pursuant to his order. The collector shall make on the entry a notation to this effect and forward a copy of the entry to the United States assay office at New York or to the United States mint at San Francisco, whichever is designated by the importer.

(2) *Sampling and assaying.* Promptly upon the receipt of each importation of gold-bearing material at the plant where it is first to be treated, it shall be weighed, sampled, and assayed for the gold content. A reserve commercial sample shall be retained by such plant for at least 1 year from the date of importation, unless the assay is sooner verified by the Bureau of the Mint.

(3) *Plant records.* The importer shall cause an exact record, covering each importation, to be kept at the plant of first treatment. The records shall show the gross wet weight of the importation, the weight of containers, if any, the net wet weight, the percentage and weight of moisture, the net dry weight, and the gold content shown by the settlement assay. A true copy of such record shall be filed promptly with the assay office in New York or the mint at San Francisco, whichever has been designated to receive a copy of the entry. The plant records herein required to be kept shall be available for examination by a representative of the Treasury Department for at least 1 year after the date of the disposition of such gold.

(4) *Limitations on exports.* The gold refined (or the equivalent to gold refined) from imported gold-bearing materials shall be exported not later than seven months from the date of entry of such gold-bearing materials and shall not exceed the amount of gold shown on the refiner's settlement sheet as having been recovered from the imported gold-bearing material: *Provided,* That, such gold may be exported prior to the procurement of the refiner's settlement sheet in an amount not in excess of 90

percent of a written estimate of the gold content of the gold-bearing material based upon the actual test assay of such material.

(5) *Export declaration and certificate.* The exporter shall state on his export declaration that the shipment is gold refined (or the equivalent to gold refined) from imported gold-bearing materials which is being exported pursuant to the authorization contained in this section, and shall attach to his export declaration a certificate properly executed in duplicate on Form TG–16 and two true copies of the refiner's settlement sheet. In the event that exportation is made prior to procurement of the settlement sheet, duplicate certified copies of the report of the actual test assay of the gold-bearing material, together with a statement showing that an exportation with respect to such material is necessary prior to the time the settlement sheet can be procured, shall be submitted by the exporter with his export declaration and certificate on Form TG–16. The collector of customs shall forward a copy of the certificate on Form TG–16 and a copy of the settlement sheet, or the report of the test assay, to the United States assay office at New York or the United States mint at San Francisco, whichever has been designated to receive a copy of the entry.

§ 54.33 *Gold imported for re-export*[3]—(a) *Exportation promptly without license.* Gold may be imported and transported for prompt export, and exported without the necessity of holding a license, provided the gold is, in fact, exported promptly and remains under customs custody throughout the period during which it is within the customs limits of the United States. Upon the arrival in the United States of gold imported for re-export pursuant to the provisions of this section, the importer shall declare to the collector of customs at the port of entry that it will be re-exported promptly. The collector of customs shall make a notation of this declaration upon the entry and forward a copy of the entry to the Director of the Mint.

(b) *Exportation pursuant to license.* In the event that the export of any gold imported pursuant to this section is delayed due to the unavailability of facilities for the onward transportation of such gold, the Director of the Mint may, subject to the following provisions, issue licenses on Form TGL–17 authorizing the importation, holding, transportation, and exportation of gold which the Director is satisfied is, in fact, imported for re-export promptly upon the completion of necessary arrangements for the transportation of such gold.

(1) Every application for a license under this section shall be made on form TG–17 and shall be filed with the Director of the Mint.

(2) Upon receipt of the application and after making such investigation of the case as may be deemed advisable, the Director of the Mint, if satisfied that the gold was, in fact, imported for re-export promptly upon the completion of necessary arrangements for the transportation of such gold, shall issue to the applicant a license on form TGL–17.

§ 54.34 *Licenses for other purposes.* The Secretary of the Treasury, with the approval of the President, shall issue licenses authorizing the acquisition, transportation, melting or treating, importing, exporting, or earmarking of gold, for purposes other than those specified in §§ 54.21 to 54.30, inclusive, 54.32 and 54.33, which, in the judgment of the Secretary of the Treasury, are not inconsistent with the purposes of the acts, subject to the following provisions:

(a) *Applications.* Every application for a license under this section shall be made on form TG–18 and shall be filed in duplicate with the Federal Reserve bank for the district in which the applicant resides or has his principal place of business. Upon receipt of the application and after making such investigation of the case as it may deem advisable, the Federal Reserve bank shall transmit to the Secretary of the Treasury the original of the application, together with any supplemental information it may deem appropriate. The Federal Reserve bank shall retain the duplicate of the application for its records.

(b) *Licenses.* If the issuance of a license is approved, the Federal Reserve bank which received and transmitted the application will be advised by the Secretary of the Treasury and directed to issue a license on form TGL–18. If a license is denied, the Federal Reserve bank will be so advised and shall immediately notify the applicant. The decision of the Secretary of the Treasury with respect to the granting or denying of a license shall be final. If a license is granted, the Federal Reserve bank shall thereupon note upon the duplicate of the application therefor, the date of approval and issuance and the amount of gold specified in such license.

(c) *Reports.* Within 7 business days of the date of disposition of the gold acquired or held under a license issued under this section, or within 7 business days of the date of export, if such exportation is authorized, the licensee shall file a report in duplicate on form TGR–18 with the Federal Reserve bank through which the license was issued. Upon receipt of such report, the Federal Reserve bank shall transmit the original thereof to the Secretary of the Treasury, and retain the duplicate for its records.

SUBPART F—PURCHASE OF GOLD BY MINTS

§ 54.35 *Purchase by mints.* The mints, subject to the conditions specified in the regulations in this part, particularly § 54.36 to § 54.44, and the general regulations governing the mints, are authorized to purchase:

(a) Gold recovered from natural deposits in the United States or any place subject to the jurisdiction thereof, which shall not have entered into monetary or industrial, professional, or artistic use, including gold contained in deposits of newly mined domestic silver;

(b) Gold contained in deposits of silver eligible for deposit at a mint for return in bar form;

(c) Scrap gold as defined in § 54.4;

(d) Gold refined from sweeps purchased from a United States mint;

(e) Gold (other than United States gold coin) imported into the United States after January 30, 1934;

(f) Gold refined (or the equivalent to gold refined) from imported gold-bearing material; and

(g) Such other gold (other than United States gold coin or gold derived therefrom) as may be authorized from time to time by rulings of the Secretary of the Treasury.

Provided, however, That no gold shall be purchased by any mint under the provisions of this subpart which, in the opinion of the mint, has been held at any time in noncompliance with the acts, the orders, or any regulations, rulings, instructions, or licenses issued thereunder, including the regulations in this part, or in noncompliance with section 3 of the act of March 9, 1933, or any orders, regulations, rulings, or instructions issued thereunder.[4]

§ 54.36 *Gold recovered from natural deposits in the United States or any place subject to the jurisdiction thereof, including gold contained in deposits of newly mined domestic silver.* (a) The mints may purchase gold under § 54.35 (a) only if the deposit of such gold is accompanied by a properly executed statement as follows:

(1) A statement of form TG–19 shall be filed with each delivery of gold by persons who have recovered such gold by mining or panning in the United States or any place subject to the jurisdiction thereof.

(2) A statement on form TG–20 shall be filed with each delivery of gold by persons who have recovered such gold from gold-bearing materials in the regular course of their business of operating a custom mill, smelter, or refinery.

(3) A statement on form TG–21 together with a statement giving the names of the persons from whom gold was purchased, the amount and description of each lot of gold purchased, the location of the mine or placer deposit from which each lot was taken, and the period within which such gold was taken from the mine or placer deposit, shall be filed with each such delivery of gold by persons who have purchased such gold directly from the persons who have mined or panned such gold.

(b) In addition, the depositors shall show that the gold was acquired, held, melted and treated, and transported by them in accordance with a license issued pursuant to § 54.25 or that such acquisition, holding, melting and treating, and transportation is permitted under

[3] Attention is directed to Order No. 29 of the Foreign-Trade Zones Board (17 F. R. 5316; 15 CFR 400.803) which is applicable to gold.

[4] Gold which has been so held in noncompliance with section 3 of the act of March 9, 1933, or the Order of the Secretary of the Treasury of December 28, 1933, may, however, be purchased in accordance with the Instructions of the Secretary of the Treasury of January 17, 1934 (§ 53.1 of this chapter), subject to the rights reserved in such Instructions and at the price stated therein.

§§ 54.12 to 54.20, inclusive, without the necessity of holding a license.

§ 54.37 *Gold contained in deposits of silver* Gold contained in deposits of silver, eligible at a mint for return in bar form, may be purchased by the mints: *Provided,* That the gold was not mixed with such silver for the purposes of selling gold to the United States which was not eligible for purchase by the United States under paragraphs (a), (c), (d), (e), or (f) of § 54.35.

§ 54.38 *Scrap gold.* Deposits of scrap gold must be accompanied by a statement executed on form TG–22. In addition the depositors of such gold shall establish to the satisfaction of the mint that the gold was acquired, held, and transported by them in accordance with the regulations in this part or a license issued pursuant thereto.

§ 54.39 *Gold refined from sweeps purchased from a United States mint.* Gold refined from sweeps purchased from a United States mint shall be purchased only if the deposit of such gold is accompanied by a statement executed on form TG–28.

§ 54.40 *Imported gold.* Except for gold which may be purchased in accordance with the provisions of § 54.41, the mints are authorized to purchase only such gold imported into the United States as has been in customs custody throughout the period in which it shall have been situated within the customs limits of the continental United States, and then only subject to the following provisions:

(a) *Notation upon entry.* Upon formal entry into the United States of any gold intended for sale to a mint under this subpart, the importer shall declare to the collector of customs at the port of entry where the gold is formally entered that the gold is entered for such sale. The collector shall make a notation of this declaration upon the entry and forward a copy to the mint designated by the importer.

(b) *Statement by importer* Upon the deposit of the gold with the mint designated by the importer, the importer shall file a statement executed in duplicate on form TG–23.

§ 54.41 *Gold refined from imported gold-bearing material.* The mints are authorized to purchase gold refined (or the equivalent to gold refined) from gold-bearing material which has been either imported into the United States pursuant to a license issued under paragraph (a) of § 54.25 for sale of the gold derived therefrom to a designated mint, or imported into the United States under § 54.32 (notwithstanding the declaration made by the importer upon the entry into the United States of such gold-bearing material as required by § 54.32 (b)), whether or not such gold or gold-bearing material has been in customs custody throughout the period it has been in the customs limits of the continental United States, subject to the following provisions:

(a) In the case of gold-bearing material imported pursuant to license issued under paragraph (a) of § 54.25, the importer shall declare to the collector of customs at the port of entry that the gold-bearing material is being imported for sale of the gold refined therefrom to a designated mint; the collector shall make on the entry a notation to this effect and forward a copy thereof to the mint designated by the importer.

(b) In the case of gold-bearing material imported under § 54.32, if the gold refined therefrom is offered to a mint other than the mint at San Francisco or the assay office at New York, the importer shall have caused the copy of the entry described in § 54.32 (b) to be forwarded to the mint to which he is offering the gold for sale.

(c) Before any gold may be purchased under this section, the requirements of § 54.32 (b) (2) and (3) must be shown to have been complied with: *Provided, however* That any person importing gold-bearing materials for sale of the gold refined therefrom to a mint other than the mint at San Francisco or the assay office at New York shall have caused the true copy of the record described in § 54.32 (b) (3) to be forwarded to the mint to which he is offering the gold for sale.

(d) Upon presentation of the gold to a mint or assay office for purchase, the importer shall file a statement executed in duplicate on form TG–26, together with two true copies of the settlement sheet covering the gold-bearing material imported.

(e) No gold shall be accepted for purchase under authority of this paragraph unless it is delivered to the mint and all of the terms hereof complied with within seven months from the date of the formal entry into the United States of the gold-bearing material from which it was extracted.

§ 54.42 *Deposits.* Deposits of gold described in § 54.35 and rulings issued thereunder wil be received in amounts of not less than 1 troy ounce of fine gold when deposited in the following forms: Nuggets, grains, and dust which are in their native state free from earth and stone, or nearly so, retort sponge, lumps, coins, bars, kings, buttons, and scrap gold as defined in § 54.4. All deposits containing 800 thousandths or more of base metal shall be rejected. In the case of gold forwarded to a mint by mail or express, a letter of transmittal shall be sent with each package. When there is a material discrepancy between the actual and invoice weights of a deposit, further action in regard to it will be deferred pending communication with the depositor.

§ 54.43 *Rejection of gold by mint.* Deposits of gold which do not conform to the requirements of §§ 54.35 to 54.42, inclusive, or which otherwise are unsuitable for mint treatment shall be rejected and returned to the person delivering the same at his risk and expense. The mints shall not purchase gold under the provisions of this subpart from any person who has failed to comply with the regulations in this part or the terms of a Treasury gold license. Any deposit of gold which has been held in noncompliance with the acts, the orders, or any regulations, rulings, instructions or licenses issued thereunder, including the regulations in this part, or in noncompliance with section 3 of the act of March 9, 1933, or any orders, regulations, rulings, or instructions issued thereunder, may be held subject to the penalties provided in § 54.11 or section 3 of the act of March 9, 1933.

§ 54.44 *Purchase price.* The mints shall pay for all gold purchased by them in accordance with this subpart $35.00 (less one-fourth of 1 percent) per troy ounce of fine gold, but shall retain from such purchase price an amount equal to all mint charges. This price may be changed by the Secretary of the Treasury without notice other than by notice of such change mailed or telegraphed to the mints.

SUBPART G—SALE OF GOLD BY MINTS

§ 54.51 *Authorization to sell gold.* Each mint is authorized to sell gold to persons holding licenses issued pursuant to § 54.25, or to persons authorized under § 54.21 to acquire such gold for use in industry, profession, or art: *Provided, however,* That except in justified cases, no mint may sell gold to any person in an amount which, in the opinion of such mint, exceeds the amount actually required by such person for a period of 3 months. Prior to the sale of any gold under this subpart, the mint shall require the purchaser to execute and file in duplicate a statement on form TG–24, or, if such purchaser is in the business of furnishing gold for use in industries, professions, and arts, on form TG–25. The mints are authorized to refuse to sell gold in amounts less than 25 ounces, and shall not sell gold under the provisions of this subpart to any person who has failed to comply with the regulations in this part or the terms of his license.

§ 54.52 *Sale price.* The mints shall charge for all gold sold under this article $35.00 (plus one-fourth of 1 percent) per troy ounce of fine gold plus the regular mint charges. This price may be changed by the Secretary of the Treasury without notice other than by notice of such change mailed or telegraphed to the mints.

SUBPART H—TRANSITORY PROVISIONS

§ 54.70 *Legal effect of amendment of regulations.* This amendment of the Gold Regulations shall not affect any act done or any right accruing or accrued or any suit or proceeding had or commenced in any civil or criminal cause prior to the effective date of this amendment but all such liabilities shall continue and may be enforced as if said amendment had not been made.

NOTE: The record-keeping and reporting requirements of these regulations have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

[SEAL] H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

[F. R. Doc. 54–5329; Filed, July 13, 1954; 8:48 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

Subchapter G—Personnel

PART 878—DECORATIONS AND AWARDS

BADGES

Sections 878.71 to 878.79 (15 F. R. 8564; 32 CFR 878.71 to 878.79) are replaced by the following:

Sec.
878.76 Purpose and policy.
878.77 Eligibility.
878.78 Aviation badges.
878.79 Posthumous awards.
878.80 Badges awarded by other services.
878.81 Awards of aviation badges by foreign governments.
878.82 Issue, supply and replacement.
878.83 Exhibition.
878.84 Manufacture, sale, and possession.

AUTHORITY: §§ 878.76 to 878.84 issued under R. S. 161, sec. 202, 61 Stat. 500, as amended; 5 U. S. C. 22, 171a. Statutory provisions interpreted or applied or cited to text in parentheses.

DERIVATION: AFR 45-80.

§ 878.76 *Purpose and policy.* Sections 878.76 to 878.84 describe the types of badges authorized in the Air Force and the general requirements for award. Badges are awarded to recognize the professional qualifications and attainments of individuals in the military service.

§ 878.77 *Eligibility.* The status of a person at the time of completion of the requirements for an aeronautical rating or designation or other qualification determines his eligibility for the award of a badge. Persons in civilian status are not eligible for the award of a badge unless earned in a former military capacity.

§ 878.78 *Aviation badges*—(a) *Basic design.* Aviation badges are basically 3-inch spread silver wings bearing distinctive center designs.

(b) *Aeronautical ratings.* Persons granted an aeronautical rating in accordance with pertinent directives are authorized aviation badges as follows:

(1) *Command pilot.* Basic wings displaying at the center the Federal shield surmounted by a wreath of laurel around a 5-pointed star.

(2) *Senior pilot.* Basic wings displaying at the center the Federal shield surmounted by a 5-pointed star.

(3) *Pilot.* Basic wings displaying at the center the Federal shield.

(4) *Senior aircraft observer* Basic wings displaying at the center the shield from the Air Force seal surmounted by a 5-pointed star.

(5) *Aircraft observer* Basic wings displaying at the center the shield from the Air Force seal.

(6) *Ratings no longer current.* Those granted aeronautical ratings no longer current are authorized to wear the aviation badge which was in effect at the time the rating was granted.

(7) *Removal from flying status.* A person holding an aeronautical rating who is removed from flying status for cause may be prohibited by the Chief of Staff, USAF, from wearing the aviation badge concerned.

(c) *Aeronautical designations.* Persons granted an aeronautical designation in accordance with current directives are authorized aviation badges as described below:

(1) *Flight surgeon.* Basic wings displaying at the center a medical caduceus superimposed on the letter "O."

(2) *Flight nurse.* Two-inch wings of basic design displaying at the center the letter "N" superimposed on medical caduceus.

(3) *Revocation.* Persons whose aeronautical designations have been revoked by the Chief of Staff, USAF, are prohibited from wearing the aviation badge concerned.

(d) *Aircrew member* (1) The commander of any Air Force activity may authorize, by orders, members of his command to wear the aircrew member badge: *Provided,* That they,

(i) Have demonstrated their proficiency as an aircrew member and have completed 150 hours flying duty performing aircrew duties, or

(ii) Have participated in at least ten combat or operational missions under probable exposure to enemy fire, or

(iii) While assigned as a member of an aircrew, were incapacitated for further duty as such by reason of being wounded as a result of enemy action or injured while discharging the duties of an aircrew member.

(2) The aircrew member badge consists of basic wings displaying at the center the coat of arms of the United States within a disc.

§ 878.79 *Posthumous awards.* One next of kin of a deceased person is entitled to posthumous award of an aviation badge earned and otherwise due. Also, one next of kin of a deceased person may be awarded the appropriate aviation badge when the person died as a result of a course of training which would have led to such an award. The commander of the installation to which the person was assigned will be responsible for issuance of the badges with appropriate letter of transmittal. The eligible next of kin are considered to be, in order: the widow or widower, eldest son, eldest daughter, father, mother, eldest brother, eldest sister, eldest grandchild.

§ 878.80 *Badges awarded by other services.* (a) Aviation badges awarded by the Army, Navy, Marine Corps, and Coast Guard may be accepted and worn as prescribed by the awarding authority.

(b) The following badges authorized by the Army, Navy, Marine Corps, and Coast Guard, while a member of that service, may be worn on the Air Force uniform:

(1) Aviation badges (Naval aviator, Naval aviation observer, combat crew member, flight surgeon, flight nurse, balloon pilot.)

(2) Combat Infantryman Badge.

(3) Medical Badge.

(4) Army parachutist and glider badges. (Army parachutist badges may be worn by persons who earn such badges as members of the Air Force.)

(c) Aviation badges awarded by other services will be worn only until a comparable Air Force aviation badge is awarded. Army parachutist and glider badges are classed as aviation badges.

(d) The combat infantryman and medical badges are worn centered above the left breast pocket of the shirt, coat, or jacket when worn as an outer garment, above any rows of ribbons which may be worn. When an Air Force aviation badge is worn with the combat infantryman or medical badge, the aviation badge is worn centered above the combat infantryman or medical badge.

§ 878.81 *Awards of aviation badges by foreign governments.* Foreign aviation badges may not be accepted or worn without the express consent of Congress. When an aviation badge is tendered by a foreign government, the prospective recipient may accept it for the purpose of forwarding the badge and accompanying documents to the Director of Military Personnel, Headquarters USAF Washington 25, D. C., for acceptance processing. To be acceptable, foreign aviation badges must be those awarded by foreign governments to members of their own armed forces.

(Clause 8, Section 9, Article I, of the Constitution.)

§ 878.82 *Issue, supply, and replacement.* Members of the Air Force on active duty and members of the Reserve Forces authorized to wear aviation badges may obtain Air Force badges from their immediate commanders or the awarding authority. Others, authorized to wear aviation badges, may address their applications to the Air Force Liaison Office, Military Personnel Records Center, 4300 Goodfellow Boulevard, St. Louis 20, Missouri. Air Force badges are supplied by requisition through established supply channels, and replacements for badges lost through no fault of the owner may be made for personnel on active duty and members of Reserve Forces. Others may obtain replacements at cost.

§ 878.83 *Exhibition.* Applications by public institutions and patriotic organizations for sample badges for exhibit purposes may be addressed to the Director of Military Personnel, Headquarters USAF Washington 25, D. C., for approval by the Secretary of the Air Force. Cost, transportation, and packing as well as engraving "Exhibit Only" will be borne by the applicant.

§ 878.84 *Manufacture, sale, and possession.* The manufacture, sale, possession, or pictorial representation in regulation size, of the likeness of any Air Force decoration or device is prohibited by law unless authorized by the Department of Air Force.

(Sec. 1, 62 Stat. 732, as amended; 18 U. S. C. 704)

[SEAL] K. E. THIEBAUD,
Colonel, U. S. Air Force,
Air Adjutant General.

[F. R. Doc. 54-5338; Filed, July 13, 1954; 8:49 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter XIV—General Services Administration

MERCURY REGULATION: PURCHASE PROGRAM FOR MERCURY MINED IN THE CONTINENTAL UNITED STATES (INCLUDING TERRITORY OF ALASKA)

Sec.
1. Basis and purpose.
2. Specifications.
3. Deliveries.
4. Price.
5. Duration of the Program.
6. Participation in the Program.

AUTHORITY: Sections 1 to 6 issued under sec. 704, 64 Stat. 816, as amended, Pub. Law 95, 83d Cong., 50 U. S. C. App. 2154. Interpret or apply sec. 303, 64 Stat. 801, as amended, Pub. Law 95, 83d Cong.; 50 U. S. C. App. 2093, E. O. 10480, 18 F. R. 4939, 3 CFR, 1953 Supp.

SECTION 1. *Basis and purpose.* The purpose of this regulation is to encourage expansion in the production of prime virgin mercury in the Continental United States (including Territory of Alaska) and to provide a uniform price in accordance with the purchase Program described herein, as certified by the Director of the Office of Defense Mobilization. The Administrator of General Services will buy prime virgin mercury mined in the Continental United States (including Territory of Alaska) in accordance with the terms and conditions set forth herein.

SEC. 2. *Specifications.* Purchases under this Program shall be restricted to prime virgin mercury mined in the Continental United States (including Territory of Alaska) which shall have a mercury content of not less than 99.9 percent and shall be bright and clean.

SEC. 3. *Deliveries.* (a) All purchases under this Program shall be delivered by the seller f. o. b. delivery point as directed by the appropriate Regional Director of the General Services Administration (see section 6 of this regulation)

(b) Deliveries shall be offered to the Government under this Program in lots containing not less than five flasks of prime virgin mercury.

(c) All shipments found not to meet the specifications provided for herein shall be rejected and shall be removed at the expense of the seller.

(d) All shipments shall be packed in clean, seamless, wrought-iron or steel flasks of standard quality and design, securely stoppered with an iron screw-plug slightly lubricated with oil, white lead, or other suitable lubricant. Flasks shall be free of rust or other foreign material and shall be in good physical condition. Standard-size flasks usually contain seventy-six (76) pounds of mercury. Flasks of other sizes may be accepted provided all flasks in any lot are the same nominal size and shape. Each flask shall have firmly wired to its neck a non-ferrous metal tag upon which shall be punched: Mercury (Domestic Purchase Program) flask serial number, place of origin, gross, tare, and net weights.

(e) Inspection of each shipment shall be made by a representative of the Government at the designated delivery point. The decision of the Government with regard to acceptance (including chemical, physical or other requirements) or rejection will be final.

(f) At least thirty (30) days prior to each shipment, the seller shall inform the appropriate Regional Director, General Services Administration. Shipment shall be made only upon and in accordance with instructions issued to the seller by the said Regional Director.

SEC. 4. *Price.* For deliveries accepted under this Program, the price shall be Two Hundred Twenty-Five Dollars ($225.00) per flask containing seventy-six (76) pounds of mercury, f. o. b. delivery point.

SEC. 5. *Duration of the Program.* This Program shall terminate and be of no further force or effect and deliveries thereunder will not be accepted after the close of business December 31, 1957, or when prime virgin mercury delivered to and accepted by the Government under this Program reaches the equivalent of one hundred twenty-five thousand (125,000) flasks containing seventy-six (76) pounds of mercury, each, whichever first occurs.

SEC. 6. *Participation in the Program.* Any person or firm wishing to participate in this Program shall give notice to the Regional Director, General Services Administration, having jurisdiction of the area in which the mercury is mined as indicated below:

Region No.	Location of regional office	Area of jurisdiction
1	Regional Director, General Services Administration, 620 Post Office and Court House, Boston 9, Mass.	Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island.
2	Regional Director, General Services Administration, 250 Hudson St., New York 13, N. Y.	New York, Pennsylvania, New Jersey, Delaware.
3	Regional Director, General Services Administration, Regional Office Bldg., 7th and D Sts. SW., Washington 25, D. C.	District of Columbia, Maryland, West Virginia, Virginia.
4	Regional Director, General Services Administration, Peachtree-7th Bldg., 50 7th St. NE., Atlanta 5, Ga.	North Carolina, South Carolina, Tennessee, Mississippi, Alabama, Georgia, Florida.
5	Regional Director, General Services Administration, U. S. Courthouse, 219 S. Clark St., Chicago 4, Ill.	Kentucky, Illinois, Wisconsin, Michigan, Indiana, Ohio.
6	Regional Director, General Services Administration, 1800 Federal Office Bldg., 911 Walnut St., Kansas City 6, Mo.	Missouri, Kansas, Iowa, Nebraska, North Dakota, South Dakota, Minnesota.
7	Regional Director, General Services Administration, 1114 Commerce St., Dallas 2, Tex.	Texas, Louisiana, Arkansas, Oklahoma.
8	Regional Director, General Services Administration, 41 Denver Federal Center, Denver 1, Colo.	Colorado, Wyoming, Utah, New Mexico.
9	Regional Director, General Services Administration, 4th floor, 49 4th St., San Francisco 3, Calif.	California, Arizona, Nevada.
10	Regional Director, General Services Administration, Federal Office Bldg., 909 1st Ave., Seattle 4, Wash.	Washington, Oregon, Idaho, Montana, Territory of Alaska

Such notice shall be in the form of a letter, post card or telegram, postmarked or dated by the telegraph office not later than June 30, 1955, and shall state that participation in this Program is desired; that prime virgin mercury mined in the area of jurisdiction will be offered to the Government under the terms and conditions of this Program. The notice must be signed and return address given. Receipt of notice will be acknowledged by the issuance of a certificate authorizing delivery of prime virgin mercury conforming to the requirements of this regulation.

This regulation is effective immediately.

Dated: July 9, 1954.

AL E. SNYDER,
Assistant Administrator

[F. R. Doc. 54-5418; Filed, July 13, 1954; 11:09 a. m.]

MERCURY REGULATION: PURCHASE PROGRAM FOR MERCURY MINED IN MEXICO

Sec.
1. Basis and purpose.
2. Specifications.
3. Deliveries.
4. Price.
5. Duration of the Program.
6. Participation in the Program.

AUTHORITY: Sections 1 to 6 issued under sec. 704, 64 Stat. 816, as amended, Pub. Law 95, 83d Cong; 50 U. S. C. App. 2154. Interpret or apply sec. 303, 64 Stat. 801, as amended, Pub. Law 95, 83d Cong; 50 U. S. C. App. 2093, E. O. 10480, 18 F. R. 4939, 3 CFR, 1953 Supp.

SECTION 1. *Basis and purpose.* The purpose of this regulation is to encourage expansion in the production of prime virgin mercury in Mexico and to provide a uniform price in accordance with the purchase Program described herein, as certified by the Director of the Office of Defense Mobilization. The Administrator of General Services will buy prime virgin mercury mined in Mexico in accordance with the terms and conditions set forth herein.

SEC. 2. *Specifications.* Purchases under this Program shall be restricted to prime virgin mercury of Mexican origin which shall have a mercury content of not less than 99.9 percent and shall be bright and clean.

SEC. 3. *Deliveries.* (a) All purchases under this Program shall be delivered by the seller f. o. b. Government purchase depot at El Paso, Texas, duty paid by the seller.

(b) Deliveries shall be offered to the Government under this Program in lots containing not less than five flasks of prime virgin mercury.

(c) All shipments found not to meet the specifications provided for herein shall be rejected and shall be removed at the expense of the seller.

(d) All shipments shall be packed in clean, seamless, wrought-iron or steel flasks of standard quality and design, securely stoppered with an iron screw-

plug slightly lubricated with oil, white lead, or other suitable lubricant. Flasks shall be free of rust or other foreign material and shall be in good physical condition. Standard-size flasks usually contain seventy-six (76) pounds of mercury. Flasks of other sizes may be accepted provided all flasks in any lot are the same nominal size and shape. Each flask shall have firmly wired to its neck a non-ferrous metal tag upon which shall be punched: Mercury (Mexican Purchase Program) flask serial number, place of origin, gross, tare, and net weights.

(e) Inspection of each shipment shall be made by a representative of the Government at the Government purchase depot. The decision of the Government with regard to acceptance (including chemical, physical or other requirements) or rejection will be final.

(f) At least thirty (30) days prior to shipment, the seller shall inform the Regional Director, General Services Administration, 1114 Commerce Street, Dallas 2, Texas, of a delivery to be made to the purchase depot. Shipment shall be made only upon and in accordance with instructions issued to the seller by the said Regional Director.

SEC. 4. *Price.* For deliveries accepted under this Program, the price shall be Two Hundred Twenty-Five ($225.00) per flask containing seventy-six (76) pounds of mercury, duty paid f. o. b. Government purchase depot, El Paso, Texas.

SEC. 5. *Duration of the Program.* This Program shall terminate and be of no further force or effect and deliveries thereunder will not be accepted after the close of business December 31, 1957, or when prime virgin mercury delivered to and accepted by the Government under this Program reaches the equivalent of seventy-five thousand (75,000) flasks containing seventy-six (76) pounds of mercury, each, whichever first occurs.

SEC. 6. *Participation in the Program.* Any person or firm wishing to participate in this Program shall give notice to the Regional Director, General Services Administration, 1114 Commerce Street, Dallas 2, Texas. Such notice shall be in the form of a letter, post card, or telegram, postmarked or dated by the telegraph office not later than June 30, 1955, and shall state that participation in this Program is desired; that prime virgin mercury mined in Mexico will be offered to the Government under the terms and conditions of this Program. The notice must be signed and return address given. Receipt of notice will be acknowledged by the issuance of a certificate authorizing delivery of prime virgin mercury conforming to the requirements of this regulation.

This regulation is effective immediately.

Dated: July 9, 1954.

AL E. SNYDER,
Assistant Administrator.

[F. R. Doc. 54-5419; Filed, July 13, 1954; 11:09 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of the Treasury

Subchapter A—General

[CGFR 53-63]

PART 8—REGULATIONS, UNITED STATES COAST GUARD RESERVE

MISCELLANEOUS AMENDMENTS

By virtue of the authority contained in the act of July 9, 1952 (66 Stat. 481), and the act of October 12, 1949, as amended (63 Stat. 764) the following amendments are hereby prescribed and shall become effective upon publication in the FEDERAL REGISTER.

ADDRESSES, OFFICIAL RESIDENCES, RECORDS, CORRESPONDENCE AND REPORTS

1. Section 8.1603 is hereby amended to read as follows:

§ 8.1603 *Permission to leave the United States.* (a) Except as provided for in this section, all Reserve personnel serving on inactive duty are required to obtain permission of the Commandant to travel or reside beyond the United States, its territories and possessions.

(b) Permission is not required:

(1) To visit Canada, Cuba, Bermuda, or Mexico, as a tourist for short periods of one month or less. While in such countries, the uniform will not be worn unless specific approval is obtained in advance from the Commandant.

(2) To travel beyond the limits of the United States, its territories and possessions, while employed on U. S. merchant vessels or on American owned vessels under friendly foreign registry or by commercial airlines of the United States. Reservists so employed shall keep the Commandant and the district commander advised of their employment and official residences.

(c) Reserve personnel serving on active duty will be governed by the same regulations as apply to personnel of the Regular Coast Guard.

MISCELLANEOUS

2. A new § 8.1704 is added to read as follows:

§ 8.1704 *Use of title and reference to Coast Guard for commercial enterprises.* (a) Personnel of the Coast Guard Reserve while serving on inactive duty may use their military titles in connection with any commercial enterprise. However, a Reservist so serving and who desires to have published articles under his signature and military title should cause to appear a statement to the effect that the opinions or assertions contained therein are the private views of the writer and are not to be construed as official or as reflecting the views of the Commandant or of the Coast Guard.

(b) Personnel of the Coast Guard Reserve are not permitted to use the official letters or words pertaining to the Coast Guard enumerated in Title 14, United States Code, section 639, for purposes of commercial trade or advertisement.

PAY, ALLOWANCES, AND COMPENSATION

3. Section 8.7110 is hereby amended to read as follows:

§ 8.7110 *Subsistence and rations.* (a) Officers and enlisted personnel while serving on active duty or active duty for training, with or without pay, shall be entitled to a ration in kind, commuted rations, or cash subsistence allowances in lieu thereof as are prescribed for personnel of the Regular Coast Guard.

(b) Officers and enlisted personnel while serving on inactive duty training without pay for periods of eight or more hours in any one calendar day shall be entitled to a ration in kind or a portion thereof, if rations are provided for active duty personnel attached to the unit where such duty is being performed.

(c) Enlisted personnel while serving on inactive duty training with pay for periods of eight or more hours in any one calendar day shall be entitled to a ration in kind or a portion thereof, if rations are provided for active duty personnel attached to the unit where such duty is being performed.

(Sec. 204, 55 Stat. 11; 14 U. S. C. 304)

[SEAL] H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

Concurred in: June 24, 1954.

C. S. THOMAS,
Secretary of the Navy.

[F. R. Doc. 54-5321; Filed, July 13, 1954; 8:45 a. m.]

Subchapter J—Procurement

[CGFR 54-25]

PART 116—PROCEDURES FOR PURCHASING

PART 118—CONTRACTS

MISCELLANEOUS AMENDMENTS

The amendments to §§ 116.01-41, 116.01-42, 116.01-43, 116.01-44, 116.01-45, 116.01-46, 116.01-47, 116.01-48, 116.02-109, 116.03-56, 118.01-14, 118.02-2, 118.03-2, 118.03-3, and 118.03-5 are editorial in nature to clarify requirements of procedures.

A new section designated § 116.01-13 prescribes instructions for the use of Coast Guard term contracts by other Federal agencies in accordance with General Services Administration Regulation 1-II-211.04.

A new section designated § 116.01-167 requires field units to obtain clearance from the Commandant for commercial procurement of items containing cotton.

A new section designated § 116.01-168 prescribes instructions for the procurement of steel filing cabinets in accordance with General Services Administration Regulation 1-II-302.07.

A new section designated § 116.01-169 prescribes instructions for the procurement of public utility services.

The amendment to § 116.02-11 prescribes the use of Standard Form 20 Invitation for Bids—Construction Contract) for the construction and repair of aircraft when the contract exceeds $2,000.

A new section designated § 116.02–118 prescribes instructions for the correction of minor informalities or irregularities in bids.

The amendment to § 118.02–1 prescribes the use of Standard Form 23 (Construction Contract) for the construction and repair of aircraft for contracts exceeding $2,000.

The amendment to § 118.03–4 requires the use of the Davis-Bacon Act, as amended, in contracts for the construction and repair of vessels and aircraft in amounts exceeding $2,000 when the site of the work is known at the time the specifications for the contract are advertised or negotiations are begun.

A new section designated § 118.04–22 prescribes administrative instructions for effectuation of the purpose of the Davis-Bacon Act, as amended, in construction and repair contracts.

A new section designated § 118.04–26 prescribes instructions for handling contractors' appeals under disputes clauses in contracts.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Order No. 120, dated July 31, 1950 (15 F. R. 6521) the following amendments are prescribed:

1. Part 116 is amended by adding a new § 116.01–13 reading as follows:

§ 116.01–13 *Use of Coast Guard term contracts by other agencies*—(a) *General.* The Commandant, district commanders, and commanding officers of Headquarters units may authorize the use of Coast Guard term contracts by other Federal agencies when the contracts permit or may be amended to permit such use. Authority to permit participation in Coast Guard term contracts by other Federal agencies shall be limited to contracts executed by the command concerned. Requests received for participation in term contracts executed by a separate command will be forwarded to that command for action and the requesting agencies informed accordingly. After permission has been granted for the use of Coast Guard term contracts, copies of the contracts, pertinent amendments, and/or contract bulletins will be furnished the participating agencies to permit placement of orders, inspection, payment of invoices, etc.

(b) *Existing Coast Guard contracts.* When agreeable to the contractors concerned, and provided there are no contract provisions to the contrary, existing Coast Guard term contracts may be amended to permit their use by specific Federal agencies. The contract amendments shall list the additional agencies allowed to participate in the contracts and shall clearly state that the participating agencies are responsible for placing orders directly with the contractors, arranging for inspection and acceptance of supplies or services, and settlement of the contractors' invoices.

(c) *Multiple use contracts.* When the Coast Guard has assumed responsibility for contracting for the requirements of other agencies in given areas, the requirements of the participating agencies will be combined with those of the Coast Guard and included in a single contract for each category of supplies or services. In those instances where a recurring need arises for the use of Coast Guard term contracts by units of other agencies, such as visiting Navy or Coast and Geodetic Survey vessels, etc., local term contracts lending themselves to use by other agencies will be worded to permit such use without specific amendment.

(d) *Responsibilities.* It is the responsibility of Federal agencies using Coast Guard term contracts to place orders with the contractors, arrange for inspection and acceptance of supplies or services, determine whether performance meets the contract terms, and effect settlement of contractors' invoices; however, general supervision over such contracts rests with the Coast Guard. Subject to the provisions of the contracts, ordering offices should deal directly with contractors concerning their performance of the contract terms, should accept or reject the supplies or services and, in case of default, terminate purchase orders, purchase from other sources, and charge contractors with resulting excess costs. Contracting officers will investigate all reports of unsatisfactory contract performance received from other Federal agencies using Coast Guard term contracts and forward the reports to the Commandant in accordance with § 116.01–10, together with appropriate recommendation(s) for determination of action to be taken.

2. Section 116.01–41 is amended to read as follows:

§ 116.01–41 *Mandatory sources of supply*—(a) *General.* The Coast Guard is required by law to obtain certain supplies and services from General Services Administration stores stock, Federal Prison Industries, Inc., agencies for the blind, and Federal Supply Schedule contracts. Contracting officers, authorized certifying officers, and other personnel concerned with the procurement of supplies and services and the payment therefor shall become thoroughly familiar with the mandatory provisions of §§ 116.01–42 through 116.01–44, 116.01–46, and 116.01–165, and the publications listed in paragraph (b) of this section.

(b) *Publications required.* Copies of the following publications shall be maintained, as necessary to meet local requirements, by district offices, Headquarters units, and other units authorized to purchase supplies and/or services from the sources indicated in paragraph (a) of this section:

(1) Stores Stock Catalog of the Federal Supply Service, General Services Administration;

(2) Schedule of Products Made in Federal Penal and Correctional Institutions;

(3) Federal Supply Schedule—(i) Mandatory classes and other classes selected by unit, (ii) Federal Supply Schedule Index (Including Index to the Stock Catalog and Other Government Sources of Supply) (iii) Federal Supply Schedule Check Lists;

(4) Schedule of Blind-Made Products.

3. Section 116.01–42 is amended to read as follows:

§ 116.01–42 *Federal supply schedule contracts*—(a) *General.* The Federal Supply Service, General Services Administration, enters into open and contracts on a national, zone, regional, or other area basis for many classes of supplies and services in common use by Federal agencies which normally do not lend themselves to definite quantity consolidated buying or to distribution from General Services Administration stores stock. The use of these contracts (known as Federal Supply Schedule Contracts) by the Coast Guard generally is mandatory. Federal Supply Schedule Contracts provide that for a definite period the contractor will be obligated to deliver all mandatory items that may be ordered thereunder subject to any stated minimum and maximum amounts of any order. The Coast Guard is responsible for inspection, shipment in the case of f. o. b. origin contracts, and payment or for taking appropriate action if the contractor defaults. Federal Supply Schedule Contracts are summarized on "Federal Supply Schedules" which are published in catalog style and list, under major commodity classifications, the supplies or services to be purchased from the contractors named therein.

(b) *Distribution of Federal supply schedules.* District commanders and commanding officers of Headquarters units will request copies of schedules and catalogs for classes of supplies and services purchased for units under their commands. Such requests will be submitted to the General Services Administration regional office serving the area in which the units concerned are located on GSA Form 457 (Application for Federal Supply Schedules and Contractor's Catalogs (Including Price Lists)) In addition, the above officers will use GSA Form 457 to request copies of the Federal Supply Schedule Check Lists. These lists are issued periodically and show the status of all Federal Supply Schedules in effect, and amendments thereto, as of the dates specified, with information as to mandatory coverage and other pertinent matters. Upon receipt of such lists, the adequacy of current distribution of Federal Supply Schedules will be reviewed and any necessary changes requested on GSA Form 457. District commanders will provide for the distribution of pertinent schedules, catalogs, and check lists to district units concerned.

(c) *Mandatory use.* When supplies or services required are not available from designated Coast Guard or Navy supply support activities, procurement of items available on Federal Supply Service Contracts will be effected by placing orders under such contracts to the extent required by the mandatory use provisions of related Federal Supply Schedule Check Lists. Such mandatory use provisions extend not only to items listed in such schedules but also require that orders for items similar in end use and purpose, but not identical, to items listed in such schedules will be filled by ordering similar schedule items.

(d) *Use of Federal specifications.* In ordering scheduled items, reference should be made to the applicable Federal specifications to make sure that necessary requirements are incorporated. This is particularly important for equip-

ment such as refrigerators, which must operate under service conditions, and when special packaging or shipping requirements exist for delivery to isolated or overseas locations. Copies of the most recent Federal specifications must be secured for this purpose and all orders must refer to the special and pertinent paragraphs in the applicable specifications.

(e) *Exceptions to mandatory use*—(1) *Emergency procurement.* In cases of public exigency or emergency requiring immediate delivery of mandatory use items which cannot be effected by ordering under Federal Supply Schedule contracts, contracting officers are authorized to make open market purchases and contracts for such items after they have determined in writing that such an exigency or emergency exists. Copies of contracting officers' determinations will be attached to the related payment vouchers.

(2) *Abnormal requirements.* Federal Supply Schedule contracts generally provide that the mandatory use provisions do not apply to abnormal requirements, that is to: (i) Any order of less than a stated minimum amount; (ii) any order for a single item or combination of items in excess of a stated amount; or (iii) a series of orders from the same ordering office in quick succession and aggregating in excess of such amount. Detailed instructions with respect to abnormal requirements are stated in applicable Federal Supply Schedules and will be followed by field contracting officers.

(3) *Requirements for similar items.* Purchase requests for items not specifically included in applicable mandatory Federal Supply Schedules but similar in end use and purpose, though not identical, to mandatory schedule items will not be filled by open market purchase action except upon specific prior clearance by the office designated in the schedule. Requests for such clearance will be in writing and will include a detailed statement by the contracting officer as to the reason the schedule item will not meet the needs of the requiring unit. If such clearance is granted, a copy will be attached to the related payment voucher.

(f) *Optional use.* Federal Supply Schedule contracts include many items to which the mandatory use provisions do not apply and the contractors are not bound to accept orders for such items. Field contracting officers will consider Federal Supply Schedule contractors as available sources of supply for nonmandatory items listed in applicable Federal Supply Schedules and will effect procurement from such sources when such action is in the best interest of the Government, price and other factors considered. However, such schedules will not be used for the procurement of nonmandatory items when: (1) Changes in the specifications are anticipated; (2) technical inspection is required; or (3) special packaging, packing, preservation, or marking requirements are necessary, and are not properly covered in the Federal specification applicable to the scheduled item.

4. Section 116.01–43 is amended to read as follows:

§ 116.01–43 *Federal supply service stores depots*—(a) *General.* The Federal Supply Service, General Services Administration, operates a chain of stores depots located at the General Services Administration regional offices listed in § 116.04–8. Periodically, the Federal Supply Service publishes an illustrated Stores Stock Catalog which shows standard items carried in stock for issue by all such stores depots, as well as special items carried only by certain stores depots. Prices for these stock items may be shown in the Stores Stock Catalog or in separate price lists. District commanders and commanding officers of Headquarters units will request Stores Stock Catalogs and changes thereto from the appropriate General Services Administration regional office. District commanders will provide for the distribution of catalogs and changes to district units concerned.

(b) *Mandatory procurement.* The Coast Guard is required to procure exclusively from the stores stock of the General Services Administration its requirements of all articles listed in the Stores Stock Catalog of the Administration, as revised from time to time, except as provided in subparagraphs (1) and (2) of this paragraph.

(1) *Exceptions.* Exceptions are as follows:

(i) Articles obtained from designated Navy supply support activities;

(ii) Special items listed in the Administration Stores Stock Catalog as available only from certain regional offices;

(iii) Articles obtained under Federal Supply Schedule contracts;

(iv) Articles listed in the Administration Stores Stock Catalog also covered by the Government Printing Office Catalog of Blank Paper and Envelopes which are for delivery in the District of Columbia;

(v) Purchases in Alaska of items under Class 56, Food.

(2) *Small purchases.* While it is the established policy to utilize government-owned stocks as a first source of supply, procurement from the stores stock of the General Services Administration is not required when small purchase procedures are available and used at the site of work or point of need under either of the following circumstances:

(i) The articles needed are non-repetitive, infrequent or isolated requirements which are not susceptible to planned requisitioning; or

(ii) When an urgent need arises for an article customarily obtained from Administration stores stock and a portion or all of the requirements must be obtained prior to the time delivery could be made from such stock.

5. Section 116.01–44 is amended to read as follows:

§ 116.01–44 *Federal Prison Industries, Inc.*—(a) *General.* The Federal Prison Industries, Inc., is a government corporation under the cognizance of the Department of Justice. The function of the corporation is to provide training and employment for prisoners confined in Federal penal and correctional institutions. The articles produced are sold only to departments and agencies of the United States, and are in strict conformity with Federal specifications. The items available from the Federal Prison Industries, Inc., are listed in its Schedule of Products Made in Federal Penal and Correctional Institutions, hereinafter called Schedule of Prison-made Products. Certain of these items, known as common use items, are stocked by the General Services Administration and are listed in its Stores Stock Catalog; common use items are also listed in Schedule A of the Schedule of Prison-made Products. Except in those cases where the above products are obtained from designated Coast Guard or Navy supply support activities, Coast Guard requirements of items manufactured by the Federal Prison Industries, Inc., shall be purchased in accordance with paragraphs (b) and (c) of this section.

(b) *Procedure for purchase*—(1) *Through facilities of the General Services Administration.* Purchase orders for requirements in less than carload lots of items stocked by the Administration shall be submitted to the regional office of the Administration which normally serves the unit receiving the material, except for:

(i) Items requiring overseas packaging or packing;

(ii) Instances where the ordering unit is so located that it would be more practical and economical to purchase directly from the manufacturing facility rather than the regional office of the Administration. In such instances, a copy of the purchase order shall be forwarded to the regional office of the Administration which normally serves the unit receiving the material in order that the Administration may coordinate requirements planning.

(2) *By direct submission to Federal Prison Industries, Inc.* Purchase orders shall be submitted directly to the U. S. Department of Justice, Federal Prison Industries, Inc., Washington 25, D. C., in the following instances:

(i) Requirements of items not stocked by the General Services Administration;

(ii) Requirements in carload lots or over of items stocked by the General Services Administration;

(iii) Cases involving the exceptions described in subdivisions (i) and (ii) of this subparagraph.

(c) *Clearances*—(1) *Open market purchases.* Provided that procurement is not required to be made from General Services Administration stores stock, open market purchases of items listed in the Schedule of Prison-made Products may be made under any of the following circumstances:

(i) When the total cost of the purchase order is $25.00 or less;

(ii) When immediate delivery is required by the public exigency (see subparagraph (2) of this paragraph)

(iii) When suitable used or surplus property can be secured;

(iv) When a formal clearance is granted by the Federal Prison Industries,

Inc. (see subparagraph (3) of this paragraph)

(v) When the Schedule of Prison-made Products grants a special clearance applicable to a particular class of products; or

(vi) When the products are procured and used outside the continental limits of the United States and Alaska.

Open market purchases will not be made on the basis of lower commercial prices, and clearance will not be issued on that basis. However, if there is a significant disparity between prices for Prison-made products and current market prices for the same or similar items, the purchasing unit will make a full report thereof to the Commandant. Government sources of supply shall be utilized to the fullest extent prior to effecting open market procurement.

(2) *Public exigency.* In cases of public exigency or emergency requiring immediate delivery of Prison-made products which cannot be effected by ordering from Federal Prison Industries, Inc., or from the cognizant Federal Supply Services stores depot of the General Services Administration, as applicable, open market purchase of such items is authorized after the contracting officer has determined in writing that such an exigency or emergency exists. A copy of the contracting officer's determination will be attached to the related payment voucher.

(3) *Formal clearances.* If required Prison-made products are not available from Federal Prison Industries, Inc., the Corporation will issue a formal written clearance authorizing commercial procurement. Such clearance will be issued only prior to open market purchase action and copies will be attached to the related payment voucher. When more than one payment voucher is issued for items covered by a clearance, subsequent vouchers must bear reference to the initial voucher with which the clearance was filed. Telegraphic clearance will be issued in cases of emergency.

6. Section 116.01–45 *Post Office Department* is hereby revoked.

7. Section 116.01–46 is amended to read as follows:

§ 116.01–46 *Blind-made products*—(a) *General.* Coast Guard requirements of blind-made products covered by the act of June 25, 1938 (52 Stat. 1196; 41 U. S. C. 46–48) must be purchased from non-profit making agencies for the blind at prices determined by the Committee on Purchases of Blind-Made Products. Blind-made products covered by the above act are listed in the Schedule of Blind-Made Products, published by the Committee on Purchases of Blind-Made Products. Items also available from stocks at stores depots of the General Services Administration are indicated by an identifying symbol in the schedule. Except in those cases where the above products are obtained from designated Coast Guard or Navy supply support activities, Coast Guard requirements of blind-made products shall be purchased in accordance with paragraph (b) of this paragraph.

(b) *Procedure for purchase*—(1) *Through facilities of the General Services Administration*—(i) *Blind-made products carried in stores stock.* Purchase orders for requirements in less than carload lots of items stocked by the Administration shall be submitted to the regional office of the Administration which normally serves the unit receiving the material, except for the instances set forth in subdivision (iii) of this subparagraph.

(ii) *Blind-made products not carried in stores stock.* Requirements in less than carload lots of items not carried in stock by the Administration shall be submitted separately to the regional office of the Administration which normally serves the unit receiving the material, except for the instances set forth in subdivision (iii) of this subparagraph.

(iii) *Exceptions.* Items requiring overseas packaging or packing; and instances where the ordering unit is so located that it would be more practical and economical to purchase directly from the manufacturing facility rather than from or through the General Services Administration. In such instances, a copy of the purchase order shall be forwarded to the regional office of the General Services Administration which normally serves the unit receiving the material, in order that the General Services Administration may coordinate requirements planning.

(2) *By direct submission to National Industries for the Blind.* Requests for allocation shall be submitted directly to the National Industries for the Blind, 15 West 16th Street, New York 11, New York, in cases involving the exceptions in subparagraph (1) (iii) of this paragraph and whenever quantities of items are in carload lots or more.

(3) *Clearances.* The following clearance, quoted from § 301.5 of the regulations of the Committee on Purchases of Blind-Made Products (41 CFR Part 301, 18 F R. 6213, Sept. 29, 1953) is applicable to the Coast Guard, except when procurement is required to be made from General Services Administration stores stock in accordance with subparagraph (1) (i) of this paragraph:

(b) Any ordering office may purchase from commercial sources any item or items listed in the "Schedule" to meet requirements (1) of military necessity which require delivery within two weeks; or (2) that total twenty-five dollars ($25.00) or less; or (3) that are for use outside the continental United States.

8. Section 116.01–47 *Purchase of blind-made products through Federal Supply Service* is hereby revoked.

9. Section 116.01–48 *Purchase of blind-made products from the National Industries for the Blind* is hereby revoked.

10. Part 116 is amended by adding a new § 116.01–167 reading as follows:

§ 116.01–167 *Procurement of items containing cotton.* Coast Guard requirements of items containing cotton (duck, webbing, awning cloth, ticking, etc.) shall be obtained by district commanders, the Yard, Aircraft Repair and Supply Base, supply centers, and supply depots from their established Naval supply support activity, General Services Administration Stores depots, or the Federal Prison Industries, Inc. Requests for clearance to effect commercial procurement of mandatory items containing cotton, when such procurement is not permitted by § 116.01–44, will be submitted to the Commandant. Such requests shall include a detailed statement as to the necessity for the proposed purchase and a description of the items to be procured. Authority shall also be requested from the Commandant to effect commercial procurement of items containing cotton, other than the mandatory classes indicated above, when the value exceeds $1,000 per line item. Commercial procurement of items containing cotton (upland cotton or long and extra long cotton other than upland) will be authorized by the Commandant under the conditions stipulated in the current Department of Defense directive on the subject, after required clearances have been obtained, and will include contract provisions to be incorporated into the pertinent invitations for bids (or requests for quotations) and/or the final contracts.

11. Part 116 is amended by adding a new § 116.01–168 reading as follows:

§ 116.01–168 *Procurement of steel filing cabinets*—(a) *Authority.* District commanders and commanding officers of Headquarters units may procure filing cabinets within authorized allowances from allotted funds.

(b) *Consolidated G. S. A. purchase program.* The General Services Administration will fill all Coast Guard requirements for letter and legal size steel upright filing cabinets. In filling such requirements, available stocks of suitable excess or reconditioned filing cabinets will be utilized by the General Services Administration. Wood cabinets may be substituted for steel; cabinets of varying numbers of drawers may be issued on the basis of the total number of drawers ordered; and all finishes will be considered interchangeable. Notice of the intent to substitute will be given prior to shipment. When requirements cannot be filled from excess or by substitution, and the furnishing of new steel filing cabinets is necessary, such new cabinets will be procured and issued by the General Services Administration.

(c) *Purchase procedure.* Purchase orders shall be submitted to the General Services Administration regional office serving the ordering office. The following certification shall be placed on each purchase order: "This certifies that this agency has complied with the applicable provisions of GSA Reg. 1–III–204.00."

12. Part 116 is amended by adding a new § 116.01–169 reading as follows:

§ 116.01–169 *Procurement of public utility services*—(a) *General.* District commanders and commanding officers of Headquarters units shall provide for the utility requirements (electricity, gas, water, etc.) of units under their command. Procurement of utility services for shore stations, and for moorings, piers, etc., provided for afloat units during their import periods, normally will

be made under contract. Commanding officers and officers in charge of afloat units visiting ports where contracts are not in effect may procure utility services as required, subject to such supplemental allotment accounting instructions as may be promulgated by the administrative command under which the vessels operate. Contract bulletins, copies of pertinent contracts (including contract amendments) and/or General Services Administration public utility schedules shall be distributed to consuming units as necessary by district commanders and commanding officers of Headquarters units, who shall also furnish such units with supplemental instructions to control procurement of utility services and settlement of charges connected therewith.

(b) *Mandatory use of G. S. A. public utility schedules.* The General Services Administration enters into contracts for public utility services in many areas in which Coast Guard units are located. Contract information in such cases is published by the General Services Administration in Public Utility Schedules, which are amended from time to time due to changes in rates, etc. When the type utility required is covered by a General Services Administration Public Utility Schedule, procurement under the schedule is mandatory.

(c) *Coast Guard contracts*—(1) *Authority for execution.* When there is no General Services Administration contract in effect or contemplated, district commanders and commanding officers of Headquarters units may execute contracts with suppliers of public utility services at points of recurring demand. Such contracts shall be limited to utilities of a routine nature, such as electric power, gas, water, garbage and trash disposal (see subparagraph (4) of this paragraph) and sewerage. Unusual utility requirements, such as street cleaning and maintenance, fire and police protection services, steam, etc., will not be procured unless specifically authorized by the Commandant.

(2) *Establishment of competition.* When only one source of supply is available, utility contracts may be executed for the period from the effective date of the contract through the end of the current fiscal year and continuing thereafter until further notice (e. g., for the period 1 July 1953 through 30 June 1954 and continuing thereafter until further notice) If the particular type of service is available from more than one source of supply, and is not governed by state, city, or local regulatory bodies, contract award shall be made on a competitive basis and the contract term shall be limited to one fiscal year.

(3) *Contract forms.* Utility contracts will be executed on Standard Form 33 (Invitation, Bid and Award) after deleting inapplicable portions and inserting complete information as to delivery points, meters, voltage, character of service, etc., and pertinent contract conditions. The supplier will be required to attach copies of applicable rate schedules. Whenever changes in rates occur, a change order (Form CG–3473) will be prepared, making reference to the change in rates and date of approval of the new schedule by the regulatory body (where applicable) Copies of the change order and the new rate schedule shall be given the same distribution as the basic contract.

(4) *Garbage and trash disposal.* Garbage is of two classes, salable and nonsalable. The disposal of salable garbage will be by sale to the term contractor or to the highest bidder if no term contract is in effect. Disposal of unsalable garbage and trash may be made under contract or such other methods as local conditions require.

13. Section 116.02–11 is amended to read as follows:

§ 116.02–11 *Prescribed invitation for bid forms*—(a) *Standard Form 33.* Standard Form 33 (Invitation, Bid and Award) and Standard Form 36 (Continuation Sheet), shall be used to solicit bids for:

(1) Supplies or services.

(2) Minor construction and repair of real property (as defined in § 118.03–3 of this subchapter) aircraft, and vessels, provided the contract does not exceed $2,000 and does not require bonds.

(3) Construction and repair of aids to navigation (as distinguished from real property and vessels)

(4) Acquisition of land, buildings, etc.

(5) Leases of real property.

(b) *Standard Form 20.* Standard Form 20 (Invitation for bids—Construction Contract) accompanied by Standard Form 21 (Bid Form—Construction Contract), shall be used to solicit bids for construction and repairs to the following for amounts of $2,000 or more, or a lesser amount which requires the use of bonds.

(1) Vessels.

(2) Shore structures.

(3) Aircraft.

14. Section 116.02–109 is amended to read as follows:

§ 116.02–109 *Mistakes in bids*—(a) *General.* The Government is not responsible for mistakes in prices made by a bidder. Mistakes in bids which are discovered prior to award shall be processed in accordance with paragraphs (b) and (c) of this section. After award, the discretion vested in the contracting officer ceases, and requests received from contractors for release on contracts based on errors in bids shall be forwarded to the Commandant under letter of transmittal accompanied by the documents indicated in subparagraph (2) of paragraph (c) of this section. The Commandant must then refer the case to the General Account Office for decision.

(b) *Obvious or apparent mistakes of a clerical nature.* Any clerical mistake obvious or apparent on the face of a bid may be corrected by the contracting officer prior to award, provided there has first been obtained from the bidder, in response to a request for verification of the bid, a statement as to any such mistake therein. Illustrative examples of such obvious or apparent mistakes are the following: Obvious error in placing decimal point; obvious discount errors (for example, 1 percent 10 days, 2 percent 20 days, 5 percent 30 days) erroneous quotations of a lower price f. o. b. destination than f. o. b. factory.

(c) *Mistakes other than obvious or apparent mistakes of a clerical nature*—(1) *Action by contracting officer* In the case of any suspected or alleged mistake in a bid other than an obvious or apparent clerical mistake on the face of the bid, the contracting officer shall obtain from the bidder, prior to award, either a verification of the bid or evidence in support of the mistake, whereupon the case shall be forwarded to the Commandant for processing to the General Accounting Office: *Provided,* That (i) if the bidder fails or refuses to furnish evidence in support of the mistake, the contracting officer shall consider the bid in the form submitted; or (ii) if time does not permit processing in accordance with customary procedures, and if there is no room for doubt as to the price or other terms intended in the bid in which a mistake occurred, the contracting officer, in the case of a mistake in the lowest bid which as clearly intended would not be the lowest bid, may disregard such bid; or, in the case of a mistake in the lowest bid which as clearly intended would still be the lowest bid, shall make the award on the basis of such low bid as originally submitted, but subject to correction if authorized by the General Accounting Office; or, in the case of a mistake in any bid other than the lowest bid, shall consider such bid on the basis of its price or other term as clearly intended.

(2) *Documents to accompany reports to Commandant.* Whenever a mistake in bid has occurred which must be referred to the Commandant for action, the report shall include the following:

(i) A copy of the bid which contains the suspected or alleged mistake;

(ii) A copy of the invitation for bids;

(iii) An abstract or record of bids received;

(iv) A statement from the bidder, and any additional supporting evidence such as work sheets or other data used in preparing the bid, setting forth the complete facts on which the allegation of mistake is based and requesting such definite relief as withdrawal of the bid, change in bid price, etc., and

(v) A statement from the contracting officer showing the date when notice of the alleged mistake was received, and any additional information he may have as to the alleged mistake, together with his recommendation.

15. Part 116 is amended by adding a new § 116.02–118 reading as follows:

§ 116.02–118 *Minor informalities or irregularities in bids*—(a) *General.* The contracting officer shall give the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid, or in the alternative, when it is not to the disadvantage of the Government, may waive any such deficiency when time does not permit the curing thereof. Illustrative examples of minor informalities or irregularities are the following: failure to furnish required catalogs, cuts or descriptive data; failure to furnish information required by the Invitation for Bids concerning such matters as (1) number of employees and (2) place of manufacture.

(b) *Failure to furnish a bid bond.* Under certain circumstances, the failure to furnish a bid bond may be treated as a minor informality or irregularity in the bid. Such a deficiency may be cured or waived where it did not result from the inability of the bidder to obtain a bid bond because of its financial status or some similar reason, but was due to inadvertence or other excusable cause. The correction or waiver of such deficiency should be permitted only after a thorough investigation has been made of the facts pertinent to such deficiency and an excusable cause has been clearly established.

16. Section 116.03–56 is amended by revising paragraph (c) (2) to read as follows:

§ 116.03–56 *Small purchases by district offices.* * * *

(c) *Use of cash purchase.* * * *

(2) The cash purchase method may be applied to C. O. D. shipments from out of town suppliers. Whenever telephonic or telegraphic requests are necessary, no confirming order is required unless requested by the supplier. When Form CG–2982 (Request for Quotation) is employed to solicit price and delivery information, and cash purchase may be accomplished by C. O. D. shipment, a copy of the form (conspicuously marked C. O. D. Shipping Order) will be returned to the supplier as a shipping order directing C. O. D. shipment. Standard Form 1165 (Receipt for Cash—Subvoucher) will be prepared and processed at the time of receipt of all C. O. D. shipments.

17. Section 118.01–14 is amended by revising paragraph (b) to read as follows:

§ 118.01–14 *Notification of contract awards to Department of Labor* * * *

(b) *Construction contracts* The Commandant shall prepare and furnish Department of Labor Form BLS–792 (Construction Contract Award Notification) to the Department of Labor for all construction contract awards of $25,000 or more for both Headquarters and field units.

18. Section 118.02–1 is amended by revising paragraph (b) to read as follows:

§ 118.02–1 *Separate award type contracts.* * * *

(b) Construction and repair contracts (real property as defined in § 118.03–3, vessels, and aircraft) for amounts of $2,000 or more (or lesser amounts at the discretion of the contracting officer), and contracts involving the use of bonds, shall be executed on Standard Form 23, Construction Contract.

19. Section 118.02–2 is amended by revising paragraph (a) and paragraph (b) (5) to read as follows:

§ 118.02–2 *Combination type contracts*—(a) Supply contracts made by advertising and contracts for aids to navigation shall be executed on Standard Form 33 (Invitation, Bid and Award)

(b) * * *

(5) Construction, alteration, maintenance, or repair of ships, craft, boats, vessels, other floating equipment (such as, but not limited to, floating drydocks, cranes, and barges) and aircraft, provided the contract does not exceed $2,000 and does not require the use of bonds.

20. Section 118.03–2 is amended by revising paragraph (b) to read as follows:

§ 118.03–2 *Standard clauses for fixed price contracts executed on SF–33.* * * *

(b) *Other contracts.* When standard Form 33 (Invitation, Bid, and Award) is used to document contracts for other categories of procurement authorized by § 118.02–2, the contracting officer may modify the requirements of paragraph (a) of this section as necessary to remove inapplicable clauses and insert contract provisions commensurate with the particular type of procurement being undertaken.

21. Section 118.03–3 is amended by revoking Note 5 "As amended by Clause (34)" of paragraph (a) and by revising paragraphs (a) (1) (34) and (35) to read as follows:

§ 118.03–3 *Standard clauses for construction and repair contracts (real property) executed on SF–23.* (a) * * *

Title	Embodying form	Note
(1) Definitions	SF–23a	*
(34) Federal, State, and local taxes.	Supplementary schedule.	3
*	*	*
(35) Assignment of claims	Supplementary schedule.	3

22. Section 118.03–4 is amended to read as follows:

§ 118.03–4 *Standard clauses for construction and repair contracts (vessels and aircraft executed on SF–23.* The following table indicates standard clauses required in construction and repair contracts (vessels and aircraft) executed on Standard Form 23 (Construction Contract) and the manner of incorporating the clauses in the contracts. The term "construction and repair contracts, vessels and aircraft)" shall mean any contract entered into either by formal advertising or by negotiation for the construction, alteration, maintenance, or repair of vessels (including ships and other floating equipment such as, but not limited to, boats, floating drydocks, cranes, barges, and the like) and aircraft.

Title	Embodying form	Note
(1) Definitions	SF–23a	
(2) Specifications and drawings.	SF–23a	
(3) Changes	SF–23a	
(4) Changed conditions	SF–23a	
(5) Termination for default—Damages for delay—Time extensions.	SF–23a	
(6) Disputes	SF–23a	
(7) Payments to contractors	SF–23a	1
(8) Materials and workmanship.	SF–23a	
(9) Inspection	SF–23a	
(10) Superintendence by contractor.	SF–23a	
(11) Permits and responsibility for work, etc.	SF–23a	
(12) Other contracts	SF–23a	
(13) Patent indemnity	SF–23a	
(14) Additional bond security	SF–23a	
(15) Covenant against contingent fees.	SF–23a	
(16) Officials not to benefit	SF–23a	
(17) Buy American Act	SF–23a	
(18) Convict labor	SF–23a	
(19) Nondiscrimination in employment.	SF–23a	
(20) Davis-Bacon Act (40 U. S. C. 276a-a (7)).	SF–23a	2
(21) Eight-hour laws—Overtime compensation.	SF–23a	
(22) Apprentices	SF–23a	
(23) Payroll records and payrolls.	SF–23a	
(24) Copeland (anti-kickback) Act—Nonrebate of wages.	SF–23a	
(25) Withholding of funds to assure wage payment.	SF–23a	
(26) Subcontracts—Termination.	SF–23a	
(27) Performance and manner of doing the work.	CG–2557B	3
(28) Lay days	CG–2557B	3
(29) Underwater paints for steel-vessels.	CG–2557B	3
(30) Liquidated damages	CG–2557B	3, 4
(31) Indemnity and insurance.	CG–2557B	3
(32) Employment of aliens	Supplementary schedule.	5, 6
(33) Ceiling prices	do	5
(34) Guaranty	do	5
(35) Termination for the convenience of the Government.	do	5
(36) Suspension of work	do	5
(37) Delivery and shifting of vessel (or aircraft).	do	5
(38) Renegotiation	do	5, 7
(39) Examination of records	do	5
(40) Indemnity and insurance valuations.	do	3, 5
(41) Liquidated damages	do	4, 5, 6
(42) Assignment of claims	do	5
(43) Amendment of Standard Form 23a (3/53).	do	5
(44) Federal, State, and local taxes.	do	5

NOTES

1. As amended by Clause (43).
2. Applicable to each contract in excess of $2,000: *Provided,* That the work under the contract is to be performed at a particular-site or place, the location of which is known to the Coast Guard at the time specifications for the contract are advertised or negotiations are begun; the location of the contract work must be stated both in the invitation for bids (or request for quotations) and in the final contract. When the site or place of contract performance is unknown at the time bids are solicited (or quotations are requested), the Davis-Bacon Act is not applicable. (See § 118.04–22 re determination of wage rates.)
3. Applicable only to vessels.
4. See § 116.01–140 of this subchapter re assessment of liquidated damages.
5. Clauses indicated by this note shall be copied from § 118.03–5 in schedule form on plain paper, suitably titled, and appended to the contract.
6. Applicable only to aircraft.
7. See § 118.04–1 for exemptions from renegotiation.

23. Section 118.03–5 is amended by revising paragraphs (m) and (n) to read as follows:

§ 118.03–5 *Special contract clauses.* * * *

(m) *Amendment of Standard Form 23A, General Provisions (Construction Contracts)* Clause 7 of Standard Form 23A, entitled "Payments to Contractors", is amended by the addition of the words "vessel" and "aircraft" between "building" and "public work" on line 9, paragraph (b)

(n) *Federal, State, and local taxes.* Coast Guard construction and repair

contracts of the categories defined in §§ 118.03–3 and 118.03–4 will incorporate the same Federal, State, and local taxes clause inserted in supply contracts by Clause 10 of the November 1949 edition of Standard Form 32, General Provisions (Supply Contract) prescribed by the General Services Administration.

24. Part 118 is amended by adding a new § 118.04–22 reading as follows:

DAVIS-BACON ACT

§ 118.04–22 *Wage rate determinations under Davis-Bacon Act*—(a) *General.* Each Coast Guard contract over $2,000 for the construction, alteration, and/or repair of public buildings, public works, vessels, and aircraft, and contracts for dredging in excess of $2,000, within the United States or its territories, requiring or involving the employment of mechanics or laborers, shall contain the stipulations of the Davis-Bacon Act, as amended, when the locality where the work to be performed is known (including cases where there is only one practicable site for such work) These stipulations, which are expressly set forth in Clauses 20 through 25 of Standard Form 23a, General Provisions (Construction Contracts) are to the effect that (1) the contractor and its subcontractors shall pay all mechanics and laborers, employed directly upon the site of the work, wages not less than those stated in the contract specifications; (2) such payments shall be unconditional and shall be made not less than once a week without deduction or rebate (except such payroll deductions as are permitted by applicable regulations prescribed by the Secretary of Labor), (3) the scale of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the work site; (4) the contracting officer shall have the right to withhold from payments due the contractor such amounts as are necessary to correct violations (which amounts will then be paid by the Comptroller General directly to the employees involved) and (5) in the event of any failure by the contractor to pay the required rate of wages, the Government may terminate the contractor's right to proceed with the work, or such part thereof as to which there has been a failure to pay the required minimum wages, and may itself prosecute the work to completion by contract or otherwise, whereupon the contractor and its sureties shall be liable for any excess cost occasioned the Government thereby. Furthermore, breach of these stipulations results in the ineligibility of the contractor to be awarded further Government contracts for three years after publication of the defaulting contractor's name on a list prepared and distributed periodically by the Comptroller General.

(b) *Procedure for requesting wage rate determinations.* All requests for the determination of wage rates by the Secretary of Labor or for any change, modification, or review thereof, shall be submitted by the contracting officer to the Commandant on Department of Labor Form DB–11 for further transmittal to the Secretary of Labor. Requests for such determinations shall be initiated at least thirty calendar days before advertisement of the specifications or the beginning of the negotiations for the contract for which the determination is sought; exceptions from this provision will be made only upon a proper showing in unusual circumstances. In emergencies, such as urgent voyage repairs, wherein the time element appears to prohibit compliance with the foregoing time limitation, the request for wage rate determinations may be submitted to the Commandant by message in lieu of Form DB–11.

(c) *Use of wage rate determinations*—(1) *Incorporation into specifications.* The entire wage rate determination or decision made by the Secretary of Labor shall be made a part of the specifications in both the invitation for bids (or request for quotations) and the final contract.

(2) *Time limitations for use of determinations.* If the proposed contract for which determination was sought has not been awarded within ninety calendar days from the date of original wage determination, such determination shall be deemed obsolete and the contracting officer shall request a new wage rate determination before the award of such contract or the beginning of such construction, alteration, and/or repair, as the case may be. All actions changing or modifying an original wage determination prior to the award of the contract or contracts for which the determination was sought shall be applicable thereto but modifications received by the contracting officer later than five days before the opening of bids (or quotations) shall not be effective if the award is made within thirty days after the opening of the bids (or quotations) or ninety days from the date of the original wage rate determination, whichever is earlier. The contracting officer shall notify the prospective bidders and other interested parties of these conditions.

(3) *Employees not listed in determinations.* The contracting officer shall require that any class of laborers and mechanics not listed in the wage rate determination made by the Secretary of Labor, which will be employed on the contract, shall be classified or reclassified by the contractor or subcontractor conformably to the Secretary's determination and a report of the administrative action taken in such cases shall be submitted to the Commandant for transmittal to the Secretary of Labor. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics to be used, the question, accompanied by the recommendation of the contracting officer, shall be forwarded to the Commandant for reference to the Secretary of Labor for final determination.

(4) *Examination of payrolls and affidavits.* The contracting officer shall make such examination of the certified payrolls and affidavits submitted by the contractor and its subcontractors, pursuant to Clause 23 of Standard Form 23a, General Provisions (Construction Contracts) as may be necessary to assure compliance with the stipulations of the Davis-Bacon Act, as amended. Such payrolls and affidavits shall be preserved in the local contract files for a period of three years from the date of completion of the contract and shall be produced at the request of the Secretary of Labor at any time during the three-year period.

(5) *Additional investigations.* In addition to the examination of payrolls and affidavits, the contracting officer shall cause investigations to be made as may be necessary to assure compliance with the labor standards prescribed herein. Such investigations shall include interviews with employees and examination of payroll data to determine the correctness of classifications and disproportionate employment of laborers, helpers, or apprentices. Complaints of alleged violations shall be given priority and statements, written or oral, made by employees shall be treated as confidential and shall not be disclosed to employers without the consent of the employees concerned.

(d) *Procedure when underpayments of wages occur*—(1) *Action by contracting officer.* When the contracting officer finds that any laborer or mechanic employed by a contractor or subcontractor subject to the Davis-Bacon Act, as amended, is being paid a rate of wages less than the wages required by the contract to be paid, he shall cause to be deducted from the amounts due the contractor so much as may be necessary to pay said difference to each such laborer or mechanic, and the total so deducted shall be set apart for the purpose of liquidating the difference in the wage rate paid under the contract. A report shall then be submitted to the Commandant setting forth all the circumstances connected with the case, including the total amount of the underpayments, whether the violations are wilful or nonwilful, and the contracting officer's recommendation(s) In the case of nonwilful violations, where the amount is less than $200, written assurance from the contractor of future compliance with the labor standards stipulations contained in the contract should also be attached to the contracting officer's report.

(2) *Action by Commandant.* In accordance with 29 CFR Part 5, the Commandant will review all reports of violations of labor standards; make any determinations required; render required reports to the Secretary of Labor, the Comptroller General, and/or the Attorney General; and notify the contracting officer of any action to be taken.

25. Part 118 is amended by adding a new § 118.04–26 reading as follows:

CONTRACT DISPUTES

§ 118.04–26 *Determinations of fact and contractor's appeals under disputes clauses*—(a) *General.* This section prescribes administrative procedures for the orderly consideration of the demands of contractors and defines the duties of contracting officers with respect to determinations of fact under disputes clauses in Coast Guard contracts and settlements in accordance therewith. Contracting officers shall expedite to the fullest extent all actions taken under the procedures set forth in this section.

(b) *Action by contracting officer* The following procedure for the disposition of disputes concerning questions of fact arising under contracts containing the standard disputes clause, or provisions similar thereto, shall be followed by contracting officers:

(1) *Request for statement of facts from contractor* Whenever a dispute arises, the contracting officer shall request the contractor to furnish a full statement of the pertinent facts and the reasons in support of the contractor's contention, with reference to the contract provisions relied upon in support of such contention.

(2) *Decisions by contracting officer.* The contracting officer shall in each instance decide the dispute and furnish directly to the contractor a statement in writing of his "decision" together with "findings of fact." The decision of the contracting officer must not, however, be in conflict with any provision of the contract.

(3) *Submission of disputes and questions to Commandant for advice and recommendation.* A contracting officer may, before reaching a decision, submit disputes and questions thereon to the Commandant for advice and recommendation. It is, however, the responsibility of the contracting officer to exercise his own judgment in making his own findings of fact and in reaching his decision.

(4) *Contractor's appeal to head of department*—(i) *Definition of head of department.* As used in this section, "Head of the Department" means the Secretary of the Treasury or his duly authorized representative.

(ii) *Submission of contractor's appeal.* If the contractor determines to appeal to the head of the department from a decision of the contracting officer, the contracting officer should request that the document relative to the appeal be delivered to him for transmission. The contracting officer shall transmit the documents relative to the appeal, including a copy of the statement of the contractor referred to in subparagraph (1) of this paragraph, with all other pertinent information (i. e., complete contract file, including change orders, copies of payment documents, correspondence,.etc.) to the Commandant.

(iii) *Action on contractor's appeal.* The Commandant will forward the decision of the head of the department to the appealing contractor and will inform the contracting officer of the decision and any instructions relative thereto.

(c) *Payments under contracts in dispute*—(1) *General.* When a dispute has developed and the contractor appeals in accordance with paragraph (b) (4) of this section, final payment will be withheld pending the decision of the head of the department. However, when the contract provides for partial payments, the moneys not in dispute may be paid to the contractor. In such cases, the contractor shall be informed in writing that the balance due under the contract has been withheld pending final decision on the dispute by the head of the department, and that acceptance of the partial payment by the contractor will not jeopardize action on his appeal.

(2) *Claims to be forwarded to G. A. O.* In the event final payment has been made on a contract prior to decision by the head of the department regarding a dispute, additional payment on the contract shall not be effected even though a decision is rendered in favor of the contractor. In such cases, the contractor shall be instructed to submit a claim for the moneys in dispute. The claim, accompanied by the finding of the head of the department, should be submitted to the Commandant, via the contracting officer, for transmittal to the General Accounting Office.

(62 Stat. 21; 41 U. S. C. 151–161)

Dated: July 7, 1954.

[SEAL] A. C. RICHMOND,
Vice Admiral, U. S. Coast Guard, Commandant.

[F. R. Doc. 54–5322; Filed, July 13, 1954; 8:45 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 11003; FCC 54–855]

[Rules Amdt. 13–9]

PART 13—COMMERCIAL RADIO OPERATORS

DISCONTINUANCE OF ISSUANCE OF TEMPORARY LIMITED RADIOTELEGRAPH SECOND-CLASS OPERATOR LICENSE

1. On April 16, 1954, the Commission released a notice of proposed rule making in the subject matter. The purpose of the rule amendment was to discontinue the issuance of Temporary Limited Radiotelegraph Second-class operator licenses (hereinafter referred to as TLT licenses) This action was taken since it appeared that the critical shortage of radio-telegraph operators resulting from the Korean hostilities no longer exists.

2. Interested persons were given an opportunity to file written comments on the Commission's proposal on or before May 20, 1954 and reply comments could be filed within ten days thereafter. Comments were received from the Radio Officers' Union and the American Radio Association. A comment was also received from one individual radio operator. Except for the comments of the Radio Officers' Union, the comments favored the Commission's proposed action.

3. The Radio Officers' Union while confirming the Commission's understanding that there is presently no shortage of radio officers asserts that because of a possibility of new involvement of the United States in international hostilities, the Commission should continue to issue TLT licenses.

4. According to the Radio Officers' Union, very few of the persons who obtained TLT licenses are presently employed as radio operators as these individuals sought employment as such only when the need for their assistance was the greatest. The Commission likewise believes that many of these men would again return to duty as shipboard radio operators should their services be required during a national emergency. Also, by the terms of the proposed rule amendment, their licenses would continue in effect until the expiration date. Hence there are many who hold valid TLT licenses who would continue to be eligible as ship radio operators beyond the six-month period during which the Radio Officers' Union suggested the Commission withhold action on its proposal. Moreover, should it appear that a new shortage of radio operators is imminent, early action may be instituted by the Commission to again permit the licensing of persons under the temporary system now in effect.

5. *Accordingly, it is ordered* Pursuant to section 4 (i) 303 (l) and (r) that Part 13 of the Commission's rules be amended in accordance as set forth below. Said amendment to become effective August 16, 1954.

(Sec. 4, 48 Stat. 1066 as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Adopted: July 7, 1954.

Released: July 8, 1954.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

1. Section 13.2 (a) (1) (iii) of the Commission's rules is amended by changing footnote 7a to read as follows:

[7a] By Commission Order dated and effective April 4, 1951, the Commission reestablished this class of operator license, to be valid for five years from the date of issuance, for the operation of certain shipboard radio stations. By Commission Order dated July 7, 1954, and effective August 16, 1954, the issuance of this class of license was discontinued. Outstanding licenses of this class remain valid until expiration according to the respective terms thereof, but may not be renewed.

2. Section 13.5 of the Commission's rules is amended by deleting paragraph (d)

3. Section 13.22 of the Commission's rules is amended by deleting paragraph (d)

4. Section 13.28 of the Commission's rules is amended to read as follows:

§ 13.28 *Renewal service requirements, renewal examinations, and exceptions.* A restricted radiotelephone operator permit normally is issued for the lifetime of the holder and need not be renewed. An aircraft radiotelephone operator authorization or a temporary limited radiotelegraph second-class operator license is not renewable. A license of any other class may be renewed without examination provided that the service record on the reverse side of the license (see §§ 13.91 to 13.94) shows at least two years of satisfactory service in the aggregate during the license term and while actually employed as a radio operator under that license. If this two-year renewal service requirement is not fulfilled, but the service record shows at least one year of satisfactory service in the aggregate during the last three years of the license term and while actually employed as a radio operator under that license, the license may be renewed upon the successful completion of a renewal

examination, which may be taken at any time during the final year of the license term or during a one-year period of grace after the date of expiration of the license sought to be renewed. The renewal examination will consist of the highest numbered examination element normally required for a new license of the class sought to be renewed, plus the code test (if any) required for such a new license. If the renewal examination is not successfully completed before expiration of the aforementioned one-year period of grace, the license will not be renewed on any basis.

NOTE: By order dated and effective April 4, 1951, the Commission temporarily waived the requirement of prior service as a radio operator or examination for renewal in the case of any applicant for renewal of his commercial radio operator license. This order is applicable to commercial radio operator licenses which expired after June 30, 1950 until further order of the Commission.

5. Section 13.94 of the Commission's rules is amended by deleting from the first paragraph the following words: "or an application for a temporary limited telegraph operator license under § 13.5 (d) (3)" As amended, the first paragraph of § 13.94 reads as follows:

§ 13.94 *Statement in lieu of service endorsement.* The holder of a radiotelegraph license or a restricted radiotelegraph operator permit desiring an endorsement to be placed thereon attesting to an aggregate of at least 6 months' satisfactory service as a qualified operator on a vessel of the United States may, in the event documentary evidence cannot be produced, submit to any office of the Commission a statement under oath accompanied by the license to be endorsed or the application, embodying the following:

* * * * *

[F. R. Doc. 54-5331; Filed, July 13, 1954; 8:48 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter F—Alaska Commercial Fisheries

PART 104—BRISTOL BAY AREA

PERSONAL USE FISHING

Basis and purpose: It has been determined that the runs and escapements of salmon in the Nushagak district of the Bristol Bay area are of sufficient size to permit fishing for a limited time on an extensive scale using commercial gear to meet the local food requirements of the native inhabitants and others in the Bristol Bay region.

Since immediate action is necessary, notice and public procedure on this amendment are impracticable (60 Stat. 237; 5 U. S. C. 1001 et seq.)

Section 104.50 is amended to read as follows:

§ 104.50 *Personal use fishing.* Subject to all other provisions of § 102.51 of this subchapter, fishing for personal use with commercial gear will be permitted (a) in the Nushagak district at any place which is at a greater distance than 12 miles by most direct water measurement from waters open to commercial fishing, and between the Pacific American Fisheries Company dock at Dillingham and Bradford Point with set nets of not to exceed 15 fathoms each, if such nets have been duly registered with the Fish and Wildlife Service, (b) in the Togiak district at all times, and (c) in the Nushagak district from 6 o'clock antemeridian July 14 to 6 o'clock antemeridian July 15, 1954.

(Sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221)

This change shall become effective immediately upon publication in the FEDERAL REGISTER.

Dated: July 12, 1954.

JOHN L. FARLEY,
Director

[F. R. Doc. 54-5402; Filed, July 12, 1954; 4:00 p. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 29, 37, 39]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1941 AND DECEMBER 31, 1951, RESPECTIVELY; CARRY-OVERS OF RAILROADS

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in sections 62 and 3791 of the Internal Revenue Code (53 Stat. 32, 467; 26 U. S. C. 62, 3791)

[SEAL] O. GORDON DELK,
Acting Commissioner of Internal Revenue.

In order to conform Regulations 118 (26 CFR Part 39) and Regulations 111 (26 CFR Part 29) to section 205 (a) and Treasury Decision 5642 (26 CFR Part 37) to section 205 (b) respectively, of the Technical Changes Act of 1953, approved August 15, 1953, such regulations and Treasury decision are hereby amended as follows:

PARAGRAPH 1. There is inserted immediately preceding § 39.122–1 the following:

SEC. 205. NET OPERATING LOSS CARRY-OVERS (TECHNICAL CHANGES ACT OF 1953, APPROVED AUGUST 15, 1953).

(a) *Amendment of Section 122 (b) (2).* (1) Section 122 (b) (2) (relating to net operating loss carry-over) is hereby amended by adding after subparagraph (D) the following new subparagraphs:

* * * * *

(F) *Loss in case of corporations whose first taxable year began in 1949 and ended in 1950.* If the first taxable year of a corporation began in 1949 and ended in 1950, and if the corporation had a net operating loss for such first taxable year, there shall be a net operating loss carry-over for the fourth and fifth succeeding taxable years. The amount of such carry-over shall be determined in accordance with the first sentence of subparagraph (B); except that—

(i) Such carry-over for the fourth succeeding taxable year shall not exceed so much of such net operating loss as is allocable to 1950, and

(ii) Such carry-over for the fifth succeeding taxable year shall not exceed the amount by which the carry-over for the fourth succeeding taxable year (as limited by clause (i) of this sentence) exceeds the net income for the fourth succeeding taxable year computed as provided in clauses (i) and (ii) of the first sentence of subparagraph (B).

For the purposes of the preceding sentence, the portion of the net operating loss which is allocable to 1950 shall be an amount which bears the same ratio to such loss as the number of days in the taxable year after December 31, 1949, bears to the total number of days in the taxable year.

* * * * *

(3) * * * Subparagraph (F) of section 122 (b) (2) of the Internal Revenue Code as added by paragraph (1) shall apply with respect to taxable years ending after December 31, 1949.

* * * * *

PAR. 2. Section 39.122–4 (a) (2) is amended to read as follows:

(2) The number of taxable years to which a net operating loss may be carried back and carried over are as follows (subject to the exception set forth below)

Net operating loss for a taxable year beginning—		May be carried back to the following preceding taxable years	May be carried over to the following succeeding taxable years
After—	Before—		
Dec. 31, 1943	Jan. 1, 1950	2	3
Dec. 31, 1949	----------	1	5

The exception referred to above is that in the case of a corporation whose first taxable year began in 1949 and ended in 1950, a net operating loss sustained in such first taxable year may be carried over to the five succeeding taxable years in lieu of the three succeeding taxable years shown above. See paragraph (b) of this section for the portion of the loss

which may be carried over to the fourth and fifth succeeding taxable years.

PAR. 3. Section 39.122–4 (b) is amended by adding the following new sentences at the end of the material which precedes the example: "In the case of a corporation whose first taxable year began in 1949 and ended in 1950 and which had a net operating loss for such first taxable year, the portion of such loss, otherwise determined under the provisions of this paragraph, which may be carried over to the fourth succeeding taxable year shall not exceed that amount which bears the same ratio to the loss as the number of days after December 31, 1949, in the taxable year of the loss bears to the total number of days in such taxable year. The portion of such loss which may be carried over to the fifth succeeding taxable year shall not exceed the amount by which the carry-over for the fourth succeeding taxable year, determined as provided in the preceding sentence, exceeds the net income, if any (computed as provided in paragraph (c) of this section) for such fourth succeeding taxable year."

PAR. 4. There is inserted immediately preceding § 29.122–1 the following:

SEC. 205. NET OPERATING LOSS CARRY-OVERS (TECHNICAL CHANGES ACT OF 1953, APPROVED AUGUST 15, 1953).

(a) *Amendment of section 122 (b)(2).* (1) Section 122 (b) (2) (relating to net operating loss carry-over) is hereby amended by adding after subparagraph (D) the following new subparagraphs:

(E) *Loss for taxable years of corporations beginning in 1947 and ending in 1948.* If a corporation (other than a corporation which commenced business after December 31, 1945) has a net operating loss for a taxable year beginning in 1947 and ending in 1948, subparagraph (C) shall apply as if the taxable year began after December 31, 1947; except that the net operating loss carry-over for the third succeeding taxable year shall not exceed that amount which bears the same ratio to the net operating loss as the number of days in the taxable year after December 31, 1947, bears to the total number of days in the taxable year.

(F) *Loss in case of corporations whose first taxable year began in 1949 and ended in 1950.* If the first taxable year of a corporation began in 1949 and ended in 1950, and if the corporation had a net operating loss for such first taxable year, there shall be a net operating loss carry-over for the fourth and fifth succeeding taxable years. The amount of such carry-over shall be determined in accordance with the first sentence of subparagraph (B); except that—

(i) Such carry-over for the fourth succeeding taxable year shall not exceed so much of such net operating loss as is allocable to 1950, and

(ii) Such carry-over for the fifth succeeding taxable year shall not exceed the amount by which the carry-over for the fourth succeeding taxable year (as limited by clause (i) of this sentence) exceeds the net income for the fourth succeeding taxable year computed as provided in clauses (i) and (ii) of the first sentence of subparagraph (B).

For the purposes of the preceding sentence, the portion of the net operating loss which is allocable to 1950 shall be an amount which bears the same ratio to such loss as the number of days in the taxable year after December 31, 1949, bears to the total number of days in the taxable year.

(2) Subparagraph (A) of section 122 (b) (2) is hereby amended by striking out "subparagraph (D)," and inserting in lieu thereof "subparagraphs (D) and (E),"

(3) The amendment made by paragraph (2), and subparagraph (E) of section 122 (b) (2) of the Internal Revenue Code as added by paragraph (1), shall apply with respect to taxable years ending after December 31, 1947. Subparagraph (F) of section 122 (b) (2) of the Internal Revenue Code as added by paragraph (1) shall apply with respect to taxable years ending after December 31, 1949.

* * * * *

PAR. 5. Section 29.122–4 (a) as amended by Treasury Decision 5963, approved December 16, 1952, is further amended by changing the second paragraph thereof to read as follows:

The number of taxable years to which a net operating loss may be carried back and carried over are as follows (subject to the four exceptions set forth below)

Net operating loss for a taxable year beginning—		May be carried back to the following preceding taxable years	May be carried over to the following succeeding taxable years
After—	Before—		
Dec. 31, 1938	Jan. 1, 1942	None	2
Dec. 31, 1941	Jan. 1, 1948	2	2
Dec. 31, 1947	Jan. 1, 1950	2	3
Dec. 31, 1949	----------	1	5

(1) The first exception referred to above is that a net operating loss may not be carried back to any taxable year beginning prior to January 1, 1941, (2) the second exception referred to above is that in the case of a corporation which commenced business after December 31, 1945, the net operating loss for any taxable year beginning after December 31, 1946, and before January 1, 1948, may be carried over to the three succeeding taxable years in lieu of the two succeeding taxable years shown above. The date of the corporation commenced business shall be determined for the purpose of this exception under the rules provided in the regulations promulgated under section 445, relating to the computation of the average base period net income in the case of new corporations. See § 40.445–1 of this chapter (Regulations 130) (3) the third exception referred to above is that in the case of a corporation which commenced business before January 1, 1946, the net operating loss for a taxable year beginning in 1947 and ending in 1948 may be carried over to the three succeeding taxable years in lieu of the two succeeding taxable years shown above. The date the corporation commenced business shall be determined in the same manner as in the case of the second exception provided in subparagraph (2) of this paragraph. See paragraph (b) of this section for the portion of the loss which may be carried over to the third succeeding taxable year; (4) the fourth exception referred to above is that in the case of a corporation whose first taxable year began in 1949 and ended in 1950, a net operating loss sustained in such first taxable year may be carried over to the five succeeding taxable years in lieu of the three succeeding taxable years shown above. See paragraph (b) of this section for the portion of the loss which may be carried over to the fourth and fifth succeeding taxable years.

PAR. 6. Section 29.122–4 (b), as amended by Treasury Decision 5963, approved December 16, 1952, is further amended by adding the following new sentences at the end of the first paragraph thereof: "In the case of a corporation which commenced business before January 1, 1946, and which had a net operating loss for a taxable year beginning in 1947 and ending in 1948, the portion of such loss, otherwise determined under the provisions of this paragraph, which may be carried over to the third succeeding taxable year shall not exceed that amount which bears the same ratio to the loss as the number of days after December 31, 1947, in the taxable year of the loss bears to the total number of days in such taxable year. In the case of a corporation whose first taxable year began in 1949 and ended in 1950 and which had a net operating loss for such first taxable year, the portion of such loss, otherwise determined under the provisions of this paragraph, which may be carried over to the fourth succeeding taxable year shall not exceed that amount which bears the same ratio to the loss as the number of days after December 31, 1949, in the taxable year of the loss bears to the total number of days in such taxable year. The portion of such loss which may be carried over to the fifth succeeding taxable year shall not exceed the amount by which the carry-over for the fourth succeeding taxable year, determined as provided in the preceding sentence, exceeds the net income, if any (computed as provided in paragraph (c) of this section), for such fourth succeeding taxable year."

PAR. 7. There is inserted immediately preceding § 37.1 the following:

SEC. 205. NET OPERATING LOSS CARRY-OVERS (TECHNICAL CHANGES ACT OF 1953, APPROVED AUGUST 15, 1953).

* * * * *

(b) *Successor Railroad Corporations.* (1) Subsection (c) of the first section of the Act of July 15, 1947 (61 Stat. 324), relating to allowance to successor railroad corporations of benefits of certain carry-overs of predecessor corporations, is hereby amended to read as follows:

(c) For the purposes of this section, if the period, beginning on the first day of the taxable year of the predecessor corporation in which the acquisition occurred and ending on the last day of the taxable year of the successor corporation in which the acquisition occurred, is not more than twelve months, then—

(1) If such net operating loss or unused excess profits credit was for a taxable year beginning before January 1, 1948, the number of succeeding taxable years to which such net operating loss or unused excess profits credit is a carry-over shall be three (instead of two, as respectively provided in section 122 (b) (2) (A) and section 710 (c) (3) (B) of such code); and

(2) If such net operating loss was for a taxable year beginning after December 31, 1947, and before January 1, 1950, the number of succeeding taxable years to which such net operating loss is a carry-over shall be four (instead of three, as provided in section 122 (b) (2) (C) of such code);

and such regulations shall prescribe (as nearly as possible in the manner respectively prescribed in sections 122 (b) (2) and 710 (c) (3) (B) of such code with respect to a net operating loss or an unused excess profits

credit, as the case may be, for such taxable year) the amount to be carried over to the last of such succeeding taxable years.

(2) The amendment made by paragraph (1) shall be effective as if included in such Act of July 15, 1947, at the time of its enactment.

PAR. 8. Section 37.1 (c) is amended as follows:

(A) By striking the heading and first sentence thereof and inserting in lieu thereof the following:

(c) *Special rule where taxable years of predecessor and successor in which acquisition occurred begin and end in the same period of not more than 12 months*—(1) *Taxable year of loss or unused credit beginning before January 1, 1948.* (i) Under subsection (c) of section 1 of the act it is possible to have a carry-over for three taxable years from a taxable year which begins before January 1, 1948.

(B) By redesignating subparagraphs (2) through (6) as subdivisions (ii) through (vi) of subparagraph (1) and by redesignating clauses (i) (ii) and (iii) in subparagraph (1) thereof as subdivisions (*a*) (*b*) and (c) respectively.

(C) By adding at the end thereof the following new subparagraph:

(2) *Taxable year of loss beginning after December 31, 1947 and before January 1, 1950.* Under subsection (c) of section 1 of the act it is possible to have a net operating loss carry-over for four taxable years from a taxable year beginning after December 31, 1947, and before January 1, 1950. The provisions of subsection (c) of section 1 shall be applied in such case in accord with the principles provided in (c) (1) of this section with respect to the carryovers from a taxable year beginning before January 1, 1948.

[F. R. Doc. 54-5325; Filed, July 13, 1954; 8:46 a. m.]

[26 CFR Part 403]

EXCISE TAX ON EMPLOYERS UNDER FEDERAL UNEMPLOYMENT TAX ACT

STATUS OF SERVICES PERFORMED BY SEAMEN EMPLOYED ON CERTAIN VESSELS OPERATED BY GENERAL AGENTS OF SECRETARY OF COMMERCE

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 1609 of the Internal Revenue Code (53 Stat. 188; 26 U. S. C. 1609) and Public Law 196, 83d Congress, approved August 5, 1953 (67 Stat. 386)

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

In order to conform Regulations 107 (26 CFR Part 403), relating to the excise tax on employers under the Federal Unemployment Tax Act (subchapter C, chapter 9, Internal Revenue Code), to section 1607 (o) of the Internal Revenue Code, added by Public Law 196, 83d Congress, approved August 5, 1953, such regulations are amended as follows:

PARAGRAPH 1. Immediately preceding the caption "Section 3797 (a) and (b) of the Internal Revenue Code" as set forth preceding § 403.201, the following is inserted:

SECTION 2 OF PUBLIC LAW 196, 83D CONGRESS, APPROVED AUGUST 5, 1953

Section 1607 of the Internal Revenue Code is hereby amended by adding at the end thereof the following new subsection:

(o) Notwithstanding the provisions of subsection (c) (6) of this section, service performed on or after July 1, 1953, by officers and members of the crew of a vessel which would otherwise be included as employment under subsection (c) of this section shall not be excluded by reason of the fact that it is performed on or in connection with an American vessel (1) owned by or bareboat chartered to the United States and (2) whose business is conducted by a general agent of the Secretary of Commerce. For the purposes of this subchapter, each such general agent shall be considered a legal entity in his capacity as such general agent, separate and distinct from his identity as a person employing individuals on his own account, and the officers and members of the crew of such an American vessel whose business is conducted by a general agent of the Secretary of Commerce shall be deemed to be performing services for such general agent rather than the United States. Each such general agent who in his capacity as such is an employer within the meaning of subsection (a) of this section shall be subject to all the requirements imposed upon an employer under this subchapter with respect to service which constitutes employment by reason of this subsection.

Par. 2. There is inserted immediately preceding § 403.203 the following:

SECTION 1607 (o) OF THE ACT

Notwithstanding the provisions of subsection (c) (6) of this section, service performed on or after July 1, 1953, by officers and members of the crew of a vessel which would otherwise be included as employment under subsection (c) of this section shall not be excluded by reason of the fact that it is performed on or in connection with an American vessel (1) owned by or bareboat chartered to the United States and (2) whose business is conducted by a general agent of the Secretary of Commerce. For the purposes of this subchapter, each such general agent shall be considered a legal entity in his capacity as such general agent, separate and distinct from his identity as a person employing individuals on his own account, and the officers and members of the crew of such an American vessel whose business is conducted by a general agent of the Secretary of Commerce shall be deemed to be performing services for such general agent rather than the United States. Each such general agent who in his capacity as such is an employer within the meaning of subsection (a) of this section shall be subject to all the requirements imposed upon an employer under this subchapter with respect to service which constitutes employment by reason of this subsection. (Sec. 2, P. L. 196, 83d Cong., approved Aug. 5, 1953, 67 Stat. 386.)

PAR. 3. Section 403.203, as amended by Treasury Decision 5905, approved May 27, 1952, is further amended by adding at the end thereof the following new paragraph (e)

(e) *Services performed on an American vessel whose business is conducted by a general agent of the Secretary of Commerce.* (1) Section 1607 (o) of the act and this paragraph apply with respect only to services performed on or after July 1, 1953, by an officer or member of the crew of an American vessel (i) which is owned by or bareboat chartered to the United States and (ii) whose business is conducted by a general agent of the Secretary of Commerce. Whether services performed on or after July 1, 1953, by such an officer or member of a crew under the above conditions constitute employment is determined under section 1607 (c) and (o) of the Act, but without regard to section 1607 (c) (6) of the act (see § 403.213, relating to services performed in the employ of the United States and instrumentalities thereof) If, without regard to section 1607 (c) (6) such services constitute employment within the meaning of the act, they are not excepted from employment by reason of the fact that they are performed on or in connection with an American vessel which is owned by or bareboat chartered to the United States and whose business is conducted by a general agent of the Secretary of Commerce, that is, such services are not excepted from employment by section 1607 (c) (6). (For provisions relating to services performed within the United States and services performed outside the United States which constitute employment, see paragraphs (b) and (c) of this section.)

(2) The expression "officer or member of the crew" includes the master or officer in charge of the vessel, however designated, and every individual, subject to his authority, serving on board and contributing in any way to the operation and welfare of the vessel. Thus, the expression includes, for example, the master, mates, pilots, pursers, surgeons, stewards, engineers, firemen, cooks, clerks, carpenters, and deck hands.

(3) An employee of the United States who performs services as an officer or member of the crew of an American vessel which is owned by or bareboat chartered to the United States and whose business is conducted by a general agent of the Secretary of Commerce shall be deemed, under section 1607 (o) of the act, to be performing services for such general agent rather than for the United States. Any such general agent of the Secretary of Commerce is considered a legal entity in his capacity as such general agent, separate and distinct from his identity as a person employing individuals on his own account. Each such general agent who, in his capacity as a legal entity separate and distinct from his own identity as a person employing individuals on his own account, qualifies as an employer under section 1607 (a) of the act (see § 403.205) with respect to

a particular calendar year is with respect to such year subject to the tax and to all of the requirements imposed upon an employer under the act and the regulations in this part with respect to services which constitute employment by reason of section 1607 (o) of the act and this paragraph.

PAR. 4. Section 403.205, relating to who are employers, is amended by adding at the end of paragraph (a) thereof the following: "(For provisions relating to the circumstances under which an employee who performs services as an officer or member of the crew of an American vessel (1) which is owned by or bareboat chartered to the United States and (2) whose business is conducted by a general agent of the Secretary of Commerce shall be deemed to be performing services for such general agent rather than for the United States, see section 1607 (o) of the act, set forth preceding § 403.203, and § 403.203 (e).)"

PAR. 5. Section 403.213, as amended by Treasury Decision 5566, approved June 23, 1947, is further amended by revising the first sentence thereof to read as follows: "Services performed in the employ of the United States Government, except as provided in section 1607 (m) and (o) of the act (see § 403.203 (d) and (e)), are excepted."

[F. R. Doc. 54-5324; Filed, July 13, 1954; 8:46 a. m.]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[50 CFR Part 101]

ALASKA COMMERCIAL FISHERIES

PROTECTION OF FISHERIES

Pursuant to section 4 (a) of the Administrative Procedure Act, approved June 11, 1946 (60 Stat. 237; 5 U. S. C. 1003), and the authority contained in the act of June 6, 1924 (43 Stat. 465, 48 U. S. C. 221, et seq.) as amended and supplemented, notice is hereby given that the Secretary intends to take the following action:

Adopt amended regulations permitting and governing the time, means, and methods for the taking of commercial fish in the waters of Alaska, and related matters.

The foregoing regulations are to be effective beginning about February 1, 1955, and to continue in effect thereafter until further notice.

Interested persons are hereby given an opportunity to participate in considering changes in the regulations by submitting their views, data, or arguments in writing to the Director of the Fish and Wildlife Service, Department of the Interior, Washington 25, D. C., on or before November 19, 1954, or by presenting their views at a series of open discussions scheduled to be held as follows:

Dillingham, Alaska	July 30.
Sitka, Alaska	September 1.
Juneau, Alaska	September 3.
Wrangell, Alaska	September 7.
Ketchikan, Alaska	September 9.
Kodiak, Alaska	September 20.
Anchorage, Alaska	September 23.
Cordova, Alaska	September 27.
Seattle, Wash	October 20, 21, and 22.

The hour and place of each meeting will be announced by the local representative of the Fish and Wildlife Service at the places indicated above.

RALPH A. TUDOR,
Acting Secretary of the Interior

JULY 8, 1954.

[F. R. Doc. 54-5360; Filed, July 13, 1954; 8:54 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 522]

EMPLOYMENT OF LEARNERS IN INDEPENDENT TELEPHONE INDUSTRY

LEARNER HOURLY RATES

Pursuant to section 14 of the Fair Labor Standards Act of 1938, as amended (section 14, 52 Stat. 1068, as amended; 29 U. S. C. 214) the Administrator has heretofore issued regulations (§§ 522.82 through 522.93) providing for the employment of learners in the Independent Telephone Industry at wages lower than the minimum wage applicable under section 6 of the act.

Such regulations have been re-examined in the light of recent changes in wage levels, administrative experience in the operation of the regulations, and after consultation with interested parties in the industry. All relevant information available indicates that it is necessary to amend the learner regulations by increasing the minimum learner wage from 60 cents per hour to 67½ cents per hour for the first 320 hours of the learning period and from 65 cents per hour to 72½ cents for the next 160 hours.

Accordingly, notice is hereby given pursuant to the Administrative Procedure Act (60 Stat. 237; 5 U. S. C. 1001) that under the authority provided in section 14 of the Fair Labor Standards Act of 1938, as amended (section 14, 52 Stat. 1068; 29 U. S. C. 214) the Administrator of the Wage and Hour Division, United States Department of Labor, proposes to revise § 522.85 as hereinafter set forth.

Section 522.85 is amended to read as follows:

§ 522.85 *Learner hourly rates.* The minimum hourly rates to be provided in a special certificate for learners shall be not less than 67½ cents per hour for the first 320 hours, and not less than 72½ cents for the second 160 hours of the learning period.

Consideration will be given to any data, views, or arguments pertaining to the amendment of 29 CFR Part 522, § 522.85, as proposed, which are submitted in writing to the Administrator of the Wage and Hour Division, United States Department of Labor, Washington 25, D. C., within 30 days from publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D. C., this 7th day of July, 1954.

WM. R. MCCOMB,
Administrator
Wage and Hour Division.

[F. R. Doc. 54-5346; Filed, July 13, 1954; 8:50 a. m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 141–148, 186–189, 311, 312, 420]

[Ex Parte Nos. 192, MC-47]

REDUCED RATES UNDER SECTION 22, SPECIAL FILING RULE; TRANSPORTATION OF U. S. GOVERNMENT FREIGHT BY CONTRACT CARRIERS BY MOTOR VEHICLE

NOTICE OF PROPOSED RULE MAKING

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 2d day of July A. D. 1954.

Upon consideration of petitions filed and representations made in Ex Parte No. MC-47 and in response to the notice of the Commission dated March 15, 1954, in Ex Parte No. 192, by certain class I railroads, the Contract Carrier Conference of the American Trucking Associations, Inc., the U. S. Department of Justice, the Atomic Energy Commission, Administrator of General Services, Secretary of Agriculture, Movers Conference of America, Convoy Company, National Traffic Committee of the Trucking Industry, Regular Common Carrier Conference ATA and National Tank Truck Carriers, Inc., Southern Motor Carriers Rate Conference, Inc., Acme Fast Freight, Inc., Bangor and Aroostook Railroad Co., Property Owners Committee, Intercoastal Steamship Freight Association, Herrin Transportation Co., and a statement of T. S. Christopher; and good cause appearing therefor;

It is ordered, That the rule making proceeding in Ex Parte No. 192 instituted by the Commission on March 15, 1954, 19 F R. 1585 and 19 F R. 1910, be, and it is hereby, assigned for hearing on a consolidated record with Ex Parte No. MC-47, 19 F R. 1560, which is now assigned for hearing before Examiner R. Edwin Brady at 8:30 o'clock a. m., U. S. s. t. (9:30 o'clock a. m., District of Columbia daylight saving time) on the 21st day of September A. D., 1954, at the Office of the Interstate Commerce Commission, Washington, D. C.

It is further ordered, That the issues in Ex Parte No. MC-47, be, and they are hereby, broadened to read as follows: To determine whether, and the extent to which, contract carriers by motor vehicle should be granted relief from the provisions of sections 218 (a) and 220 (a) of the Interstate Commerce Act, and the Commission's rules and regulations promulgated thereunder, including Ex Parte Nos. MC-9 and MC-12, with respect to the filing of schedules of minimum charges and contracts and with respect to the form and terms of such contracts insofar as these matters relate to transportation performed under contracts with the United States Government, and to take such other action in the premises as the facts and circumstances shall appear to warrant.

It is further ordered, That the statements and protests enumerated above be, and they are hereby, filed as a part of the record in the respective proceedings.

It is further ordered, That the requests contained in the petitions, except to the

extent granted in this order, be, and they are hereby, denied.

And it is further ordered, That the above-entitled proceedings be, and they are hereby, assigned to Division 2 for administrative handling.

Notice of this order shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission at Washington, D. C., and by filing a copy with the Director, Division of the Federal Register.

By the Commission.

[SEAL] GEORGE W LAIRD, *Secretary.*

[F. R. Doc. 54-5359; Filed, July 13, 1954; 8:54 a. m.]

NOTICES

DEPARTMENT OF JUSTICE

Office of Alien Property

[Vesting Order 15107, Amdt.]

J. A. HENCKELS K. G.

In re: Trade-marks owned by J. A. Henckels K. G., Solingen, Germany.

Vesting Order 15107, dated September 19, 1950, is hereby amended as follows and not otherwise;

1. By deleting Exhibit B, attached thereto and by reference made a part thereof, and

2. By deleting subparagraph 2 thereof and substituting therefor a new subparagraph 2 reading as follows:

2. That the property described as follows:

The trade-marks registered in the United States Patent Office under the numbers and on the dates set out in Exhibit A, attached hereto and by reference made a part hereof, and the registrations thereof, together with

(i) The respective goodwill of the business in the United States and all its possessions to which said trade-marks are appurtenant,

(ii) Any and all indicia of such goodwill (including but not limited to formulae whether secret or not, secret processes, methods of manufacture and procedure, customers lists, labels, machines and other equipment)

(iii) Any interest of any nature whatsoever in and rights and claims of every character and description to said business, goodwill and trade-marks and registrations thereof and

(iv) All accrued royalties payable or held with respect to such trade-marks and all damages and profits recoverable at law or equity from any persons, firms, corporations or government for past infringement thereof,

is property of, or is property payable or held with respect to trade-marks or rights related thereto in which interests are held by, and such property itself constitutes interests held therein by, the aforesaid national of a foreign country (Germany)

All other provisions of said Vesting Order 15107 and all actions taken by or on behalf of the Attorney General of the United States in reliance thereon, pursuant thereto and under the authority thereof are hereby ratified and confirmed.

Executed at Washington, D. C., on May 27, 1954.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND, *Assistant Attorney General, Director Office of Alien Property.*

[F. R. Doc. 54-5368; Filed, July 13, 1954; 8:56 a. m.]

DEPARTMENT OF THE TREASURY

Office of the Secretary

DELIVERY OF GOLD COIN, GOLD BULLION, AND GOLD CERTIFICATES TO TREASURER OF THE UNITED STATES [1]

CHANGE IN REQUIREMENTS

Whereas the order of the Secretary of the Treasury of December 28, 1933, required the delivery to the United States of gold coin, except gold coin having a recognized special value to collectors of rare and unusual coin and certain other exceptions not here pertinent;

Whereas twenty years have elapsed since the date of this order, a substantial portion of the gold coins known to have been in circulation on that date have been delivered in accordance with its provisions, and part of the gold coins outstanding in 1933 are known to have been held abroad and therefore not subject to the requirement of delivery.

Whereas it can reasonably be assumed that substantially all of the gold coins required to be delivered under the provisions of the order have been delivered and it is not in the public interest to continue provisions requiring individual examination of gold coins minted prior to 1933;

Now, therefore, by virtue of the authority vested in me by section 11 of the Federal Reserve Act, as amended, (12 U. S. C. 248n) and the authority vested in me by the Gold Reserve Act of 1934, as amended, (31 U. S. C. 440-446) I hereby amend the order of the Secretary of the Treasury of December 28, 1933, by amending paragraph B of section 1 thereof to read as follows:

B. Gold coin having a recognized special value to collectors of rare and unusual coin, including all gold coin made prior to April 5, 1933.

[SEAL] GEORGE M. HUMPHREY, *Secretary of the Treasury.*

[F. R. Doc. 54-5330; Filed, July 13, 1954; 8:48 a. m.]

[1] This subject matter formerly appeared under Part 52, Title 31, Code of Federal Regulations. The codification of Part 52 was discontinued at 13 F. R. 8328.

POST OFFICE DEPARTMENT

ORGANIZATION OF OFFICE OF DEPUTY POSTMASTER GENERAL

ABOLISHMENT OF POSITION OF ADMINISTRATIVE ASSISTANT TO DEPUTY POSTMASTER GENERAL AND REASSIGNMENT OF DUTIES; CREATION OF POSITION OF ADMINISTRATIVE OFFICER

The following is the text of Order No. 55670, dated June 28, 1954:

1. The position of Administrative Assistant to the Deputy Postmaster General is abolished.

2. There is hereby created the position of Administrative Officer which shall report to the Executive Assistant to the Deputy Postmaster General. The Administrative Officer shall have responsibility for all of the functions previously assigned to the Administrative Assistant to the Deputy Postmaster General, except as provided below, plus such other duties as may be assigned.

3. The Office of the Chief Hearing Examiner shall report separately to the Deputy Postmaster General for purposes of general administration. The Chief Hearing Examiner shall exercise all of the responsibilities previously delegated to him, together with the hearings responsibilities previously assigned to the Administrative Assistant to the Deputy Postmaster General, except for the authority to sign foreign fraud orders.

[SEAL] ABE MCGREGOR GOFF, *The Solicitor.*

[F. R. Doc. 54-5347; Filed, July 13, 1954; 8:50 a. m.]

VEHICLE SERVICE

TRANSFER OF RESPONSIBILITY FOR ADMINISTRATION AND OPERATION FROM BUREAU OF POST OFFICE OPERATIONS TO BUREAU OF FACILITIES

The following is the text of Order of the Postmaster General No. 55660, dated June 16, 1954, respecting Vehicle Service Personnel:

Pursuant to authority of section 1 (b) of Reorganization Plan No. 3 of 1949, responsibility for the administration and operation of the Vehicle Service is transferred from the Bureau of Post Office Operations to the Bureau of Facilities effective July 1, 1954. All Vehicle Service personnel (including route supervisors, dispatchers, driver-mechanics, and garageman-drivers) the appointment, promotion, and discipline of such personnel, and control of the funds in Allotment Account No. 231 for the operation of the Vehicle Service are transferred from the Bureau of Post Office Operations to the Bureau of Facilities.

The Assistant Postmaster General, Bureau of Post Office Operations, will detail such employees now assigned to Washington, D. C., headquarters as necessary to handle all clerical work incident to the administration and operation of the Vehicle Service, until the transfer of this clerical work is effected to the various regional offices of the Post Office Department which have been, or will be, established.

Effective immediately, there are authorized to be established by the Assistant Postmaster General, Bureau of Facilities, Motor Vehicle Service Regional Offices, headed by a regional manager of Motor Vehicle Service and including necessary technical and clerical staff, in such cities in which it is anticipated there will be established a regional office of the Post Office Department.

[SEAL] ABE MCGREGOR GOFF,
The Solicitor

[F. R. Doc. 54-5348; Filed, Juy 13, 1954; 8:51 a. m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

MICHIGAN

DESIGNATION OF AREA FOR PRODUCTION EMERGENCY LOANS

For the purpose of making loans pursuant to section 2 (a) of Public Law 38, 81st Congress, it is found that in Ingham, Jackson, and Livingston Counties, Michigan, a production disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

After June 30, 1955, loans under section 2 (a) of Public Law 38, 81st Congress, will not be made in said counties except to borrowers who previously received such assistance.

Done at Washington, D. C., this 9th day of July 1954.

TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 54-5354; Filed, July 13, 1954; 8:52 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

MEMBER LINES OF BRAZIL/UNITED STATES-CANADA FREIGHT CONFERENCE ET AL.

NOTICE OF AGREEMENTS FILED FOR APPROVAL

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916, as amended; 39 Stat. 733, 46 U. S. C. section 814.

(1) Agreement No. 5450-28 between the member lines of the Brazil/United States-Canada Freight Conference and Agreement No. 6900-8 between the Member Lines of the River Plate/United States-Canada Freight Conference.

These agreements modify the provision of the basic agreement of the respective conferences (Nos. 5450 and 6900) dealing with the loss of voting rights of a member not having a sailing in the trade covered for a period of ninety days, by deleting therefrom the proviso that such provision shall not be effective until after the termination of the national emergency proclaimed by the President under date of May 27, 1941.

(2) Agreement No. 7707-3, between Isthmian Steamship Company and Matson Navigation Company, modifies their approved joint cargo service agreement (No. 7707) covering the trade between the Hawaiian Islands and U. S. Atlantic and Gulf ports, to provide for the pooling and apportionment of total net revenues received from cargo transported by the parties.

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to any of the agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: July 9, 1954.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS,
Secretary.

[F. R. Doc. 54-5367; Filed, July 13, 1954; 8:56 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 5993]

TRANS-TEXAS AIRWAYS CONTROL AND INTERLOCKING RELATIONSHIPS CASE

NOTICE OF PREHEARING CONFERENCE

Notice is hereby given that a prehearing conference in the above-entitled case (reopened by Board Order No. E-8456) is assigned to be held on July 19, 1954, at 10:00 a. m., e. d. s. t., in Room 7852, Commerce Building, Fourteenth and Constitution Avenue NW., Washington, D. C., before Examiner Curtis C. Henderson.

Dated at Washington, D. C., July 9, 1954.

[SEAL] FRANCIS W BROWN,
Chief Examiner

[F. D. Doc. 54-5370; Filed, July 13, 1954; 8:56 a. m.]

[Docket No. 6503 et al.]

SOUTHWEST AIRWAYS CO. ET AL., SOUTHWEST RENEWAL CASE

NOTICE OF HEARING

In the matter of the applications for certificates of public convenience and necessity authorizing service to points presently served by Southwest Airways Company on Route No. 76, the integration of routes of Southwest Airways Company and Bonanza Air Lines, Inc., and the continued suspension of service by United Air Lines, Inc., to various points.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 401 and 1001, that a hearing in the above-indicated proceeding will be held on July 27, 1954, at 10:00 a. m., P. d. t., in Room 59, Federal Office Building, San Francisco, California, before Examiner Herbert K. Bryan. After completion of the testimony of civic witnesses the hearing will be recessed and resumed on September 8, 1954, at 10:00 a. m., e. d. t., in Room E-210, Temporary Building No. 5, Sixteenth and Constitution Avenue NW., Washington, D. C.

Without limiting the scope of the issues to be considered particular attention will be directed to the following matters:

1. Whether the public convenience and necessity require continued service to various points presently served by Southwest on Route No. 76.

2. Whether the public convenience and necessity require continued suspension of service by United Air Lines, Inc., at Santa Barbara, Monterey, Red Bluff, and Eureka, California.

3. Whether a combination of Southwest Airways Company and Bonanza Air Lines, Inc., by means of merger, consolidation, acquisition of control, route transfer, or any other lawful manner would be in the public interest and in accordance with public convenience and necessity.

4. Whether the applicants for certificates are fit, willing and able to provide such services as may be found required by the public convenience and necessity.

For further details of the issues involved in this proceeding interested persons are referred to the applications, pertinent orders of the Civil Aeronautics Board, and the Prehearing Conference Report which are on file with the Civil Aeronautics Board.

Notice is further given that any person other than parties of record desiring to be heard in this proceeding should file with the Board, on or before July 27, 1954, a statement setting forth the issues of fact or law upon which he desires to be heard.

Dated at Washington, D. C., July 9, 1954.

[SEAL] FRANCIS W BROWN,
Chief Examiner

[F. R. Doc. 54-5371; Filed, July 13, 1954; 8:56 a. m.]

[Docket No. 6757]

CALLISON'S FLYING SERVICE

NOTICE OF PREHEARING CONFERENCE

In the matter of the application of Callison's Flying Service for authorization under section 402 of the Civil Aeronautics Act to operate casual, occasional, or infrequent flights into the United States.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on July 15, 1954, at 10:00 a. m., e. d. s. t., in Room 7852, Commerce Building, Fourteenth and Constitution Avenue NW., Washington, D. C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D. C., July 9, 1954.

[SEAL] FRANCIS W. BROWN, *Chief Examiner,*

[F. R. Doc. 54-5369; Filed, July 13, 1954; 8:56 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 10638—10640; FCC 54-823]

DORSEY EUGENE NEWMAN ET AL.

MEMORANDUM OPINION AND ORDER AMENDING ISSUES

In re applications of Dorsey Eugene Newman, Hartselle, Alabama, Docket No. 10638, File No. BP-8334; Radio Atlanta, Incorporated (WERD), Atlanta, Georgia, Docket No. 10639, File No. BP-8569; WDMG, Incorporated (WDMG) Douglas, Georgia, Docket No. 10640, File No. BP-8648; for construction permits.

1. The Commission has before it for consideration (1) a petition filed February 10, 1954, by Radio Atlanta, Inc. for leave to amend and to delete issue;[1] (2) a petition filed on March 31, 1954, by the Chief, Broadcast Bureau, to enlarge the issues, delete an issue and add a party; (3) petitions filed April 13, 1954, and April 20, 1954, respectively, by Radio Atlanta, Incorporated, to enlarge the issues; (4) comments of Dorsey Eugene Newman to petition of the Chief, Broadcast Bureau, filed April 5, 1954, (5) reply of Chief, Broadcast Bureau, to Comment of Dorsey Eugene Newman, filed April 12, 1954; and (6) response to petition of Chief, Broadcast Bureau, filed April 20, 1954, by Radio Atlanta, Incorporated.

2. This proceeding concerns an application by Dorsey Eugene Newman of Hartselle, Alabama, for a construction permit to operate a standard broadcast station at Hartselle, Alabama, on frequency 860 kc, 250 watts power, daytime only; an application by Radio Atlanta, the licensee of Station WERD at Atlanta, Georgia, operating on frequency 860 kc, for a construction permit to increase its power from 1 kw, daytime only, to 10 kw with a directional antenna; and an application by WDMG, Incorporated, the licensee of Station WDMG, Douglas, Georgia, operating on frequency 860 kc, for a construction permit to increase its power from 1 kw daytime only to 5 kw daytime only.

3. By an order of August 12, 1953, the Commission designated these applications for hearing in a consolidated proceeding, specified the issues,[2] made Opp Broadcasting Company, Inc., licensee of Radio Station WAMI, Opp, Alabama, a party to the proceeding, and provided that the time and place for hearing would be specified in a subsequent order. On March 11, 1954, the Commission ordered this proceeding to be held on April 15, 1954, in Washington, D. C. By subsequent order of the Examiner the hearing date was further extended to a time to be later specified.

4. By his petition the Chief, Broadcast Bureau, requests an enlargement of the issues in this proceeding (a) to determine whether the operations proposed by Newman and Radio Atlanta, Inc., would involve objectionable interference with Station WMTS, Murfreesboro, Tennessee, and if so, the nature and extent thereof, the areas and populations affected thereby; (b) to determine whether the operation proposed by WDMG, would involve objectionable interference with the present operation of Station WERD, and if so, the nature and extent thereof and population affected thereby; (c) the addition of Station WMTS, Murfreesboro, Tennessee, as a party to this proceeding; and (d) the deletion of Issue No. 6 of the Commission's order of designation dated August 12, 1953 relating to the compliance of the proposal of Radio Atlanta, Inc., with the "blanketing rule." (See Issue No. 6 footnote 1.)

5. In its petition filed February 10, 1954, Radio Atlanta, Inc., also requests the deletion of Issue No. 6, and in its petition filed April 13, 1954, an issue is requested to determine whether Newman's proposed operation would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations in regard to the "10 percent rule." It is alleged that the Newman proposal will receive objectionable interference within its normally protected contour to a total area of 431 square miles and a total population of 26,762 from the present operations of Stations WMTS, Murfreesboro, Tennessee and WILD, Birmingham, Alabama, representing approximately 33 percent of the population actually served. Radio Atlanta's petition filed April 20, 1954, requests an issue to determine whether the operation proposed by Newman involves objectionable interference to Station WILD, Birmingham, Alabama, and also requests that Pilot Broadcasting Corporation, the licensee of Station WILD, Birmingham, Alabama, be made a party to this proceeding.

6. An issue with respect to section 307 (b) of the Communications Act of 1934, as amended, is suggested by Newman in his comments filed April 5, 1954, and is supported by the Chief, Broadcast Bureau. No opposition has been made to the addition of this issue.

7. Radio Atlanta (WERD) contends in its response that it would be improper and unfair to give consideration to interference which would result to Station WMTS, Murfreesboro, Tennessee, from the proposed operation of WERD. In support thereof it states that the grant to Station WMTS, made on August 26, 1953, was subject to the condition that WMTS accept any objectionable interference from the WERD proposal (File No. BP-8569) Atlanta, Georgia, if that proposed application is granted.

8. In order to better understand the bases for the above-described pleadings, it is necessary to point out some developments which have occurred since the order of designation. On December 2, 1953, the Commission amended its Rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations with respect to blanketing, and on February 24, 1954 (effective April 5, 1954), the Commission amended the Standards by deleting the map entitled "Ground Conductivity in the United States and Canada" designated as Figure 3, and substituted therefor a new map entitled "Estimated Effective Ground Conductivity in the United States" Because of these changes, new interference problems have arisen and a previously existing blanketing problem has been settled.

9. The application of Murfreesboro Broadcasting Company requesting a construction permit to operate on 860 kc with a power of 250 watts daytime only, at Murfreesboro, Tennessee, was granted on August 26, 1953, subject to the condition "that permittee accept any objectionable interference from the WERD proposal (File No. BP-8569) Atlanta, Georgia, if that proposed operation is granted." A license was subsequently granted to Murfreesboro Broadcasting Company subject to the same condition. The application of Radio Atlanta, Inc. was filed July 29, 1952, and thus was a co-pending application at the time the Murfreesboro proposal was granted. Murfreesboro Broadcasting Company did not file any objection to the condition to its grant and did not request a comparative hearing as provided by § 1.383 of the Commission's rules.[3]

[1] Radio Atlanta, Inc. in its amendment which was granted by the Motions Commissioner on February 10, 1954, supplied information with reference to the Commission's new "blanketing rule" That part of the petition to delete issue was referred to the full Commission for action.

[2] The issues are:

1. To determine the financial qualifications of WDMG, Inc.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed stations, and the availability of other primary service to such areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of the Station WDMG would involve objectionable interference with Station WAMI, Opp, Alabama, and, if so, the nature and extent thereof, the areas and populations affected thereby and the availability of other primary service to such areas and populations, and the nature and character of the program service now being rendered by Station WAMI to such areas and populations.

5. To determine whether the operation of the proposed stations would involve objectionable interference, each with the other, and if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

6. To determine whether the installation and operation of Station WERD as proposed would be in compliance with the Commission's Rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations with particular reference to blanketing within the 250 mv/m contour of Station WERD.

[3] § 1.383 *Partial grants.* Where the Commission without a hearing grants any application in part, or with any privileges, terms, or conditions other than those requested, or subject to any interference that

Moreover, Murfreesboro Broadcasting Company has not now sought intervention in this proceeding.

10. Chief, Broadcast Bureau, requests that Murfreesboro Broadcasting Company be made a party to the proceeding. However, from the foregoing, it is apparent that the Radio Atlanta, Inc. (WERD) proposal involved interference to WMTS computed on the basis of the then effective ground conductivity map and that the interference was considered of so insubstantial an amount that the two applications were not mutually exclusive. There has been no allegation hereby Chief, Broadcast Bureau, that there would be an increase in the WERD proposed radiation in the direction of Station WMTS over that which existed at the time of the grant to Murfreesboro Broadcasting Company which would result in an increase in objectionable interference. In view of the condition to the WMTS grant, the interference to Station WMTS from the proposed WERD operation would not be a factor in the Commission's consideration of the WERD application,[4] and thus, we see no useful purpose, under the circumstances here, in making Murfreesboro Broadcasting Company a party to the proceeding with respect to Radio Atlanta, Inc., or to include an issue with respect to the extent of interference to WMTS.

11. A similar situation, as above, exists between the proposed operation of Newman and Pilot Broadcasting Corporation, licensee of Station WILD (850 kc, 1 kw, 10 kw–LS DA–N, U) Birmingham, Alabama. The WILD application to increase daytime power was a copending applicant with the application of Newman at the time of its grant (11/5/52) and the grant thereof was made subject to the condition that:

The authority granted herein is subject to the condition that licensee shall accept such interference as would be received from the operation presently proposed in the application of Dorsey Eugene Newman, Hartselle, Alabama (BP–8334).

Pilot Broadcasting Corporation did not file any objection to this condition, nor has it sought intervention in this proceeding. For the reasons stated above in reference to the request of Chief, Broadcast Bureau we see no useful purpose for making Pilot Broadcasting Company a party to this proceeding, or to enlarge issues with respect to the extent of interference to WILD as requested by Radio Atlanta, Inc.

12. Radio Atlanta, Inc., by amendment of February 10, 1954, supplied information with respect to the Commission's new "blanketing rule," showing compliance therewith. Accordingly, Issue No. 6 in the order of designation has been rendered moot, and can be removed.

13. With respect to the remaining matters raised by the foregoing pleadings, the Commission, upon review, believes that the order of designation should be modified by the addition of the issues, specified below. In concluding to do so, the Commission believes that all relevant facts concerning the applications must be based upon the existing Standards.

14. *Accordingly, it is ordered,* This 30th day of June 1954, that Issue No. 6 of the order of designation of August 12, 1953, with reference to blanketing is deleted.

15. *It is further ordered,* That the issues in this proceeding are renumbered and amended by the addition of Issues 6, 7, 8, and 9, to read as follows:

1. To determine the financial qualifications of WDMG, Inc.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed stations, and the availability of other primary service to such areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of the Station WDMG would involve objectionable interference with Station WAMI, Opp, Alabama, and, if so, the nature and extent thereof, the areas and populations affected thereby and the availability of other primary service to such areas and populations, and the nature and character of the program service now being rendered by Station WAMI to such areas and populations.

5. To determine whether the operation of the proposed stations would involve objectionable interference, each with the other, and if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

6. To determine whether the operation proposed by Dorsey Eugene Newman at Hartselle, Alabama, would involve objectionable interference with Station WMTS, Murfreesboro, Tennessee; and if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

7. To determine whether the operation proposed by WDMG, Incorporated, at Douglas, Georgia, would involve objectionable interference with the present operation of Station WERD, Atlanta, Georgia; and if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

8. To determine whether the installation and operation of Dorsey Eugene Newman as proposed would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations, with particular reference to providing the recommended minimum of interference-free service to the area within the proposed stations' normally protected (0.5 mv/m) contour.

9. To determine, in the light of section 307 (b) of the Communications Act of 1934, as amended, which of the above-entitled applications would provide the more fair, efficient and equitable distribution of Radio Service.

10. To determine, on a comparative basis, which of the operations proposed in the above-entitled applications would better serve the public interest, convenience and necessity in the light of the evidence adduced under the foregoing issues and the record made with respect to the significant differences between the applicants as to:

(a) The background and experience of each of the above-named parties hav-

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may result to the station if designated application or applications are subsequently granted, the action of the Commission shall be considered as a grant of such application unless the applicant shall, within 20 days from the date on which public announcement of such grant is made, or from its effective date if a later date is specified, file with the Commission a written request rejecting the grant as made. Upon receipt of such request, the Commission will vacate its original action upon the application and set the application for hearing in the same manner as other applications are set for hearing.

[4] In the proceeding involving the application of Ozarks Broadcasting Co. (KWTO), Springfield, Missouri, to increase its nighttime power (Beaumont Broadcasting Corp. (KFDM), 3 RR 1406a, 5 RR 1305) the Commission had granted the application of Beaumont Broadcasting Co. (KFDM) for improved facilities on the same frequency as that of KWTO with the condition that it accept the interference which might result to it in the event the Commission subsequently granted the KWTO application. In its Memorandum Opinion and Order (12/18/47) denying Beaumont's petition for reconsideration of Commission's action in subjecting Beaumont's grant to that condition, the Commission stated in pertinent part as follows:

"While requirements of a fair hearing would not permit a grant of the KFDM application and a later denial of the WHBQ and KWTO applications on the ground that they would cause interference to the newly authorized operation of KFDM (since all three were co-pending), it is possible to grant KFDM, conditional upon its accepting whatever interference might be caused by the WHBQ and KWTO applications, if granted. If such a course be taken, WHBQ and KWTO cannot object, and if KFDM does not wish to accept such a grant, then it is privileged under the Rule [§ 1.383] to refuse the grant on such terms and demand a comparative hearing." (See also: Beaumont Broadcasting Corp. v. Federal Communications Commission (7 RR 2149).)

In another proceeding (Queen City Broadcasting, Inc., et al., 4 RR 1009) three applications to operate on 630 kc in the Cincinnati, Ohio-Lexington, Kentucky area were involved, two of which caused interference to Station WSAV in Savannah, Georgia which had been granted with a condition that it accept the interference that would result from either of the two applications in Cincinnati in the event of a grant of one of them. In its Memorandum Opinion and Order, (12/6/48) the Commission stated in pertinent part as follows:

"The Commission in its Decision in this proceeding considered adversely to the Cincinnati applicants the fact that either would cause interference to WSAV and deprive WSAV listeners of their only primary service. Since WSAV application was copending with instant applications, was not comparatively considered with the applications in this proceeding and the grant of the WSAV application was expressly conditioned as stated above, we believe that to base a denial of the Cincinnati applications on the fact that either would cause interference to WSAV is contrary to the principles enunciated in the Memorandum Opinion and Order, adopted December 18, 1947, relating to the application of Beaumont Broadcasting Corporation (KFDM), Beaumont, Texas, * * * and is therefore, in error."

ing a hearing on its ability to own and operate the proposed stations.

(b) The proposals of each of the above-named applicants with respect to the management and operation of the proposed stations.

(c) The programming service proposed in each of the above-named applications.[5]

16. *It is further ordered,* That Murfreesboro Broadcasting Company, licensee of Station WMTS, Murfreesboro, Tennessee, is made a party to this proceeding only with respect to the proposal of Dorsey Eugene Newman.

17. *It is further ordered,* That the petitions in all other respects are denied.

Released: July 2, 1954.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 54-5333; Filed, July 13, 1954; 8:48 a. m.]

[Docket No. 10965; FCC 54M-836]

SEATON PUBLISHING CO.

ORDER POSTPONING DATE FOR TAKING ORAL TESTIMONY

In re application of The Seaton Publishing Company, Hastings, Nebraska, for construction permit for new television station; Docket No. 10965, File No. BPCT-1265.

Upon motion of counsel for the applicant in the above-entitled matter, and for good cause shown,

It is ordered, This 29th day of June 1954, that the date for taking of oral testimony, heretofore set for July 1, 1954, be and it hereby is postponed to July 29, 1954, at 10:00 a. m., in the Commission's Office in Washington, D. C.

Released: June 30, 1954.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 54-5334; Filed, July 13, 1954; 8:48 a. m.]

[Docket Nos. 10968—10970; FCC 54-842]

GREAT LAKES TELEVISION, INC., ET AL.

ORDER ENLARGING ISSUES

In re applications of Great Lakes Television, Inc., Buffalo, New York, Docket No. 10968, File No. BPCT-1812; Leon Wyszatycki, d/b as Greater Erie Broadcasting Company, Buffalo, New York, Docket No. 10969, File No. BPCT-1812; WKBW-TV Inc., Buffalo, New York, Docket No. 10970, File No. BPCT-1841, for construction permits for new commercial television broadcast stations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 1st day of July 1954;

The Commission having under consideration (1) petitions to enlarge issues filed by Great Lakes Television, Inc. and Greater Erie Broadcasting Company on April 13 and 14, 1954, respectively; (2) oppositions thereto filed by WKBW Inc. on April 23 and 30, 1954; (3) a reply to the opposition filed by Greater Erie Broadcasting Company on May 3, 1954; and (4) a petition to amend its petition to enlarge issues, filed on June 14, 1954, by Greater Erie Broadcasting Company; and

It appearing that Great Lakes Television and Greater Erie Broadcasting contend that WKBW-TV does not have available certain funds which it proposes in its application as available for the construction and operation of its proposed television station, and that WKBW's plan of financing is inadequate to provide funds required for the first year of operation, and that a bank loan in the amount of $200,000 is conditioned upon WKBW securing a network contract with either American Broadcasting Company, Columbia Broadcasting Company or the National Broadcasting Company and that individual loans aggregating $100,000 are expressly contingent upon the availability of the above-described $200,000 bank loan, and further, that petitioners question the deferred payment agreement with DuMont for technical equipment; and

It further appearing that WKBW argues that there is no substance to the allegations contained in the petitions herein and that they should therefore be denied; and

It further appearing that although the Commission in its order[1] designating the applications herein for hearing found WKBW prima facie financially qualified, the Commission believes on the basis of the allegations and information now before it that the public interest would be served by inquiry at the hearing into the financial qualifications of WKBW-TV, Inc.,

Accordingly, it is ordered, That the above-entitled petitions filed by Great Lakes Television, Inc. and Greater Erie Broadcasting Company on April 13 and 14, 1954, respectively, are granted, and that the issues are enlarged by the addition of the following issue:

4. To determine whether WKBW-TV, Inc. is financially qualified to construct, own and operate the proposed television station.

Released: July 7, 1954.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 54-5335; Filed, July 13, 1954; 8:48 a. m.]

[Docket Nos. 11097-11099; FCC 54-849]

MUSCOGEE BROADCASTING CO. ET AL.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Muscogee Broadcasting Company, Columbus, Georgia, Docket No. 11097, File No. BP-8345; J. C. Henderson, Talbotton, Georgia, Docket No. 11098, File No. BP-9148; Georgia Ra-Tel, Inc., Manchester, Georgia, Docket No. 11099, File No. BP-9343; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 7th day of July 1954,

The Commission having under consideration the above-entitled applications of the Muscogee Broadcasting Company and J. C. Henderson for construction permits for new standard broadcast stations to operate on 1580 kilocycles with a power of 1 kilowatt, daytime only, at Columbus and Talbotton, Georgia, respectively; and of Georgia Ra-Tel, Inc. for a construction permit for a new standard broadcast station to operate on 1570 kilocycles with a power of 1 kilowatt, daytime only, at Manchester, Georgia;

It appearing that pursuant to section 309 (b) of the Communications Act of 1934 as amended, the subject applicants were advised by letter dated March 8, 1954, that the Georgia Ra-Tel and J. C. Henderson proposals are mutually exclusive; that the J. C. Henderson and Muscogee Broadcasting Company applications are mutually exclusive; that the Georgia Ra-Tel and Muscogee Broadcasting Company proposals may involve interference with each other; and that insufficient information was submitted with the Georgia Ra-Tel application from which a determination could be made whether it is financially qualified to construct and operate the proposed station; and

It further appearing that the Muscogee Broadcasting Company and J. C. Henderson replied in letters dated April 5 and 13, 1954, respectively, that they were prepared to go to hearing; and

It further appearing that the Georgia Ra-Tel application was dismissed on May 4, 1954, for failure of prosecution pursuant to § 1.381 of the rules; that on May 14, 1954, the aforementioned action was rescinded, the application reinstated, and upon its being amended on June 3, 1954, to include new officers, directors and stockholders was assigned the above new file number; and that it has been determined from information in the said amendment that the applicant is financially qualified; and

It further appearing that the applicants are legally, technically, financially and otherwise qualified to operate the proposed stations; and

It further apearing that the Commission, after consideration of the above replies, is of the opinion that a hearing is necessary;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed stations, and the availability of other primary service to such areas and populations.

[5] Issue No. 10 was added by Commission Order of June 17, 1954 (FCC 54-771, 6639).

[1] Published in the FEDERAL REGISTER on March 30, 1954, 19 F. R. 1937.

2. To determine whether the operations proposed by Georgia Ra-Tel, Inc., and Muscogee Broadcasting Company would involve objectionable interference to each other, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3. To determine, on a comparative basis, which of the operations proposed in the above-entitled applications would best serve the public interest, convenience or necessity in the light of the evidence adduced under the foregoing issue and the record made with respect to the significant differences between the applicants as to:

(a) The background and experience of each of the above-named applicants to own and operate the proposed stations.

(b) The proposals of each of the above-named applicants with respect to the management and operation of the proposed stations.

(c) The programming service proposed in each of the above-mentioned applications.

4. To determine in the light of section 307 (b) of the Communications Act of 1934, as amended, which, if any, of these applicants would provide the most fair, efficient and equitable distribution of radio service.

Released: July 8, 1954.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 54-5332; Filed, July 13, 1954; 8:48 a. m.]

[Docket No. 11100; FCC 54-850]

TOP OF TEXAS BROADCASTING CO. (KAMQ)

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Top of Texas Broadcasting Company (KAMQ) Amarillo, Texas, for construction permit; Docket No. 11100, File No. BP-9139.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 7th day of July 1954;

The Commission having under consideration the above-entitled application for construction permit to increase the daytime power of Station KAMQ, Amarillo, Texas, from 1 kilowatt to 5 kilowatts on 1010 kilocycles, 500 watts night, nighttime directional antenna, unlimited time;

It appearing that the applicant is legally, technically, financially and otherwise qualified to operate Station KAMQ as proposed, but that the applicant may involve interference with Stations KRVN, Lexington, Nebraska; and KIND, Independence, Kansas; and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicant was advised by letter dated May 14, 1954, of the aforementioned deficiencies and that the Commission was unable to conclude that a grant of the application would be in the public interest; and

It further appearing that Station KIND, in a reply dated June 9, 1954; and Station KRVN, in a reply dated June 12, 1954, opposed a grant of the subject application and requested that it be designated for hearing and that they be made parties thereto; and

It further appearing that the applicant filed an amendment to its application on June 14, 1954, in which it was shown that interference would be caused to Stations KIND and KRVN; and

It further appearing that the Commission, after consideration of the replies, is of the opinion that a hearing is necessary;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of Station KAMQ, and the availability of other primary service to such areas and populations.

2. To determine whether the operation proposed by Station KAMQ would involve objectionable interference with Stations KIND, Independence, Kansas; and KRVN, Lexington, Nebraska, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3. To determine whether in light of the evidence adduced pursuant to the foregoing issues the operation proposed by KAMQ would serve the public interest, convenience and necessity.

It is further ordered, That the Nebraska Rural Radio Association, licensee of Station KRVN, Lexington, Nebraska, and the Central Broadcasting, Inc., licensee of Station KIND, Independence, Kansas, are made parties to the proceeding.

Released: July 8, 1954.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 54-5336; Filed, July 13, 1954; 8:49 a. m.]

[Docket Nos. 11101, 11102; FCC 54-851]

GREENWOOD BROADCASTING CO., INC., AND CHEROKEE BROADCASTING CO.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Greenwood Broadcasting Company, Inc., Chattanooga, Tennessee, Docket No. 11101, File No. BP-9133; Max M. Blakemore and E. C. Blakemore doing business as Cherokee Broadcasting Company, Murphy, North Carolina, Docket No. 11102, File No. BP-9210; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 7th day of July 1954;

The Commission having under consideration the above-entitled applications of the Greenwood Broadcast Company, Inc. and the Cherokee Broadcasting Company for a construction permit for a new standard broadcast station to operate on 600 kilocycles with a power of 1 kilowatt, daytime only, at Chatanooga, Tennessee, and Murphy, North Carolina, respectively;

It appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicants were advised by letter dated May 20, 1954, that their proposed operations would result in mutually destructive interference to each other; that in the application of the Cherokee Broadcasting Company the type number of the proposed frequency monitor was not specified; that it appeared from the engineering data submitted in the application of the Greenwood Broadcasting Company, Inc., its proposed operation would not provide the required minimum of interference-free service within its normally protected daytime contour (0.5 mv/m) because of interference from Station WREC, Memphis, Tennessee; and that the proposed antenna system might not produce the minimum efficiency required by the Commission's Standards; and that the Commission was unable to conclude that a grant of either application would be in the public interest; and

It further appearing that the Greenwood Broadcasting Company, Inc., and the Cherokee Broadcasting Company in replies filed on June 16 and June 18, 1954, respectively, amended their applications to eliminate the above-described deficiencies in their applications except that of mutually destructive interference to each other; and

It further appearing, that the applicants are legally, technically, financially and otherwise qualified to operate the proposed stations; and

It further appearing that the Commission, after consideration of the aforementioned replies, is of the opinion that a hearing is necessary;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, that the said applications are designated for hearing in a consolidated proceeding, at a time and place, to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed stations, and the availability of other primary service to such areas and populations.

2. To determine, on a comparative basis, which of the operations proposed in the above-entitled applications would better serve the public interest, convenience or necessity in the light of the evidence adduced under the foregoing issue and the record made with respect to the significant differences between the applicants as to:

(a) The background and experience of each of the above-named applicants to own and operate the proposed stations.

(b) The proposals of each of the above-named applicants with respect to the management and operation of the proposed stations.

(c) The programming service proposed in each of the above-mentioned applications.

3. To determine in the light of section 307 (b) of the Communications Act of 1934, as amended, which, if either, of these applicants would provide the more fair, efficient and equitable distribution of radio service.

Released: July 8, 1954.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 54-5337; Filed, July 13, 1954; 8:49 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6431]

CITIZENS UTILITIES CO.

NOTICE OF ORDER AUTHORIZING TRANSMISSION OF ELECTRIC ENERGY FROM U. S. TO MEXICO

JULY 8, 1954.

Notice is hereby given that on July 2, 1954, the Federal Power Commission issued its order adopted June 30, 1954, authorizing transmission of electric energy from the United States to Mexico and superseding previous authorization in the above-entitled matter.

[SEAL] J. H. GUTRIDE,
Assistant Secretary.

[F. R. Doc. 54-5363; Filed, July 13, 1954; 8:54 a. m.]

[Docket No. E-6540]

PENNSYLVANIA WATER & POWER CO.

NOTICE OF ORDER MODIFYING AND AFFIRMING INITIAL DECISION

JULY 8, 1954.

Notice is hereby given that on July 6, 1954, the Federal Power Commission issued its order adopted July 2, 1954, modifying and affirming as modified initial decision of Presiding Examiner in the above-entitled matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 54-5364; Filed, July 13, 1954; 8:55 a. m.]

[Docket Nos. G-683, G-1180, G-1532, G-1683, G-1857, G-2186]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

NOTICE OF ORDER AFFIRMING AND ADOPTING DECISIONS

JULY 8, 1954.

Notice is hereby given that on June 30, 1954, the Federal Power Commission issued its order adopted June 28, 1954, affirming and adopting Presiding Examiner's Decisions in the above-entitled matters.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 54-5361; Filed, July 13, 1954; 8:54 a. m.]

[Docket No. IT-5029]

ARIZONA PUBLIC SERVICE CO.

NOTICE OF ORDER AUTHORIZING TRANSMISSION OF ELECTRIC ENERGY FROM U. S. TO MEXICO

JULY 8, 1954.

Notice is hereby given that on July 2, 1954, the Federal Power Commission issued its order adopted June 30, 1954, authorizing transmission of electric energy from the United States to Mexico and superseding temporary authorization in the above-entitled matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 54-5365; Filed, July 13, 1954; 8:55 a. m.]

[Docket Nos. IT-5971, IT-6050, E-6337, E-6340]

SOUTHWESTERN POWER ADMINISTRATION, DEPARTMENT OF INTERIOR

NOTICE OF ORDER EXTENDING CONFIRMATION AND APPROVAL OF RATE SCHEDULES

JULY 8, 1954.

Notice is hereby given that on June 30, 1954, the Federal Power Commission issued its order adopted June 30, 1954, extending confirmation and approval of rate schedules in the above-entitled matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 54-5366; Filed, July 13, 1954; 8:55 a. m.]

[Project No. 1394]

CALIFORNIA ELECTRIC POWER CO.

NOTICE OF ORDER FURTHER AMENDING LICENSE (MAJOR)

JULY 8, 1954.

Notice is hereby given that on July 2, 1954, the Federal Power Commission issued its order adopted June 30, 1954, further amending license (Major) in the above-entitled matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 54-5362; Filed, July 13, 1954; 8:54 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 811-338]

ALLEGHANY CORP.

NOTICE OF AND ORDER FOR HEARING

JULY 7, 1954.

Part I. According to information contained in the files of this Commission, it appears that:

1. On the 1st day of November, 1940, Alleghany Corporation, ("Alleghany") a company organized under the laws of the State of Maryland, filed with this Commission its notification of registration under the Investment Company Act of 1940 ("the 1940 Act") as a closed-end, non-diversified, management investment company.

2. On June 5, 1945 the Interstate Commerce Commission ("ICC"), in proceedings initiated by Alleghany (Chesapeake & Ohio Railway Purchase etc., Finance Docket No. 14692) entered its order providing, among other things:

It is further ordered, That acquisition by the Alleghany Corporation of control, through ownership of stock, of The Chesapeake and Ohio Railway Company, The New York, Chicago and St. Louis Railroad Company, and the Pere Marquette Railway Company, and their subsidiaries and affiliates, be, and it is hereby, approved and authorized: *Provided, however,* That this authorization and approval are granted subject to the express conditions numbered (1), (2), and (3), relative to the depositing of stocks with independent voting trustees and to the elimination of interlocking directors, set forth in said report.

It is further ordered, That unless and until otherwise ordered by this Commission said Alleghany Corporation shall be considered as a carrier subject to the provisions of section 20 (1) to (10), inclusive, and section 20a (2) to (11), inclusive, of the Interstate Commerce Act to the same extent that those provisions are applicable to the Chesapeake and Ohio Railway Company and its carrier subsidiaries and affiliates; . . .

3. On October 4, 1945 this Commission entered its findings, opinion and order in these proceedings pursuant to section 8 (f) of the 1940 Act in which the Commission found, on the basis of the June 5, 1945 order of ICC and upon review of the provisions of the Interstate Commerce Act to which Alleghany was declared subject by said order of the ICC, that Alleghany was subject to regulation under the Interstate Commerce Act, and therefore by virtue of section 3 (c) (9) of the 1940 Act excepted from the definition of an investment company, and ordered as follows:

It is hereby declared that Alleghany Corporation has ceased to be and is not now an investment company within the meaning of the Investment Company Act of 1940; and

It is ordered that the registration of Alleghany Corporation under the Investment Company Act of 1940 shall forthwith cease to be in effect, provided, however, that if in the future Alleghany Corporation ceases to be subject to regulation under the Interstate Commerce Act as set forth in such findings and opinion, this order may be revoked, suspended or modified after appropriate notice and opportunity for hearing.

4. On June 22, 1954, the ICC entered an order in Finance Docket No. 14692 reciting and ordering, inter alia, as follows:

It further appearing, That counsel for Alleghany Corporation has stated to the Commission that Alleghany Corporation and its affiliates have divested themselves of control of the Chesapeake and Ohio Railway Company and the Vice President and General Counsel of the Chesapeake and Ohio Railway Company had advised the Commission of various steps taken to effectuate such divestments of control.

And it further appearing, That Alleghany does not propose to exercise further the authority granted by said order of June 5, 1945, and that it should no longer be considered a carrier for the purposes of section 20 (1) to (10), inclusive, or section 20a (2) to (11), inclusive.

It is ordered, That said Alleghany Corporation shall, on or before July 15, 1954, show cause why said order of June 5, 1945, so far as it applies to Alleghany Corporation, should not be vacated and set aside and be no longer of any force and effect.

5. On June 29, 1954 Alleghany filed its response to said order of the ICC dated June 22, 1954, in which Alleghany stated that " it has no objection, but agrees, to the entry of an order, forthwith, formally terminating the authority granted to Alleghany by the Commission's order of June 5, 1945, to control the Chesapeake and Ohio Railway Company," and requested an extension of time until October 1, 1954 to respond to that portion of the ICC order which contemplates that Alleghany should be declared to be no longer subject to certain provisions of the Interstate Commerce Act. In support of its request for extension of time Alleghany stated, in part, "Requiring Alleghany now to assume noncarrier status would involve numerous changes, and would be unnecessarily burdensome were Alleghany to be shortly thereafter required to resume carrier status."

On July 1, 1954 the ICC entered its order denying the requested extension of time.

6. As shown by its balance sheet of December 31, 1953, Alleghany had outstanding the following securities: $7,872,000 principal amount of 5 percent Sinking Fund Debentures, due 1962; $14,000,000 principal amount of Notes payable to Banks, due 1954 to 1956; $2,067,600 stated value of $4 Prior Preferred Convertible Stock; $13,674,400 par value of 5½ percent Preferred Stock and $4,637,797 par value of common stock.

Additionally the balance sheet discloses that Alleghany's Paid-in Surplus was $107,118,632 and that it had an Earned Surplus deficit of $92,840,889. At December 31, 1953 dividend arrears on the 5½ percent Preferred Stock amounted to $17,047,419.

7. The total assets of Alleghany as of December 31, 1953 were stated at $56,850,032, of which $42,066,001 represented investments stated approximately at market value. Other assets included $9,233,457 of notes receivable. Its investments included securities of twenty-eight different companies engaged in various businesses including steel, oil, gas, aircraft, utility, transportation and manufacturing. Its largest single investment was in a controlling block of stock of Investors Diversified Services, Inc., a registered investment company, which in turn controls and manages other registered investment companies. Investments in transportation companies were stated at a market value of $7,892,709.

8. Since the end of 1953 Alleghany has disposed of its investment in the common stock of the Chesapeake and Ohio Railway Company. Its other investments in transportation companies as of December 31, 1953 were stated at a market value of approximately $4,419,420.

9. Alleghany filed with the Commission a proxy statement dated April 8, 1954 containing, inter alia, the following representation:

ALLEGHANY'S ACQUISITION PROGRAM

Alleghany, which has sold all of its Chesapeake and Ohio Railway Company stock, intends to acquire Central [The New York Central Railway Company] stock from time to time. It holds short-term notes of Mr. Murchison [Clinton W. Murchison] and Mr. Richardson [Sid W. Richardson] totalling $7,500,000 due September 15, 1954 and bearing 4½ percent interest, the proceeds of which, together with temporary borrowings of $5,000,000 from Mr. Kirby [Allan P. Kirby] and $7,500,000 from a group of banks, were applied by Mr. Murchison and Mr. Richardson to their purchase of their 800,000 shares of Central. They have the right to require Alleghany, at their several options, to purchase from them up to a total of 400,000 of such shares, but only between July 15 and September 15, 1954, at $25 per share. If they exercise in whole or in part such options covering 200,000 of their shares, they must also contribute an equal number of shares, which, with the shares so purchased by Alleghany, must be subjected to joint venture agreements with Alleghany under which, in effect, Alleghany will provide the capital, will be entitled to half of all income and profits and will be guaranteed by such other parties against losses. Mr. Richardson also has the right to require Mr. Kirby to purchase from him 200,000 additional shares of Central stock at $25 per share between June 1–10 and July 11–15, 1954.

There is no understanding with or determination by Mr. Murchison or Mr. Richardson as to whether either or both will exercise any or all such rights to require purchase of these shares of Central stock presently owned by them. If Alleghany shall not acquire interests in Central stock through the exercise of these options by Mr. Murchison and Mr. Richardson, it intends otherwise to acquire stock of Central with the proceeds from the payment of such notes it holds from Mr. Murchison and Mr. Richardson, or from other funds available to it. This, of course, does not constitute a representation by Alleghany that it will purchase in the market any given amount of Central stock at any given time or price.

Part II. It appearing to the Commission, on the basis of the facts set forth in Part I hereof that substantial questions exist (a) whether Alleghany is an investment company within the meaning of section 3 of the 1940 Act and subject to the provisions of section 7 thereof; and (b) whether Alleghany is, or may be, no longer subject to regulation under the Interstate Commerce Act within the meaning of section 3 (c) (9) of the 1940 Act and this Commission's order of October 4, 1945; (c) whether this Commission's order of October 4, 1945 should be revoked, suspended or modified in accordance with the policy and provisions of the 1940 Act for the protection of investors and in the public interest; and (d) whether any proposed acts or transactions require that Alleghany register as an investment company and that further proceedings be had before the Commission.

Part III. Wherefore it is ordered that a hearing under the applicable provisions of the 1940 Act and the rules of the Commission be held on the 27th day of July 1954, at 10:00 a. m. at the offices of the Securities and Exchange Commission, 425 Second Street NW., Washington, D. C. with respect to the following specified matters and questions, without prejudice, however, to the specification of additional issues which may be present in these proceedings:

1. Whether or not Alleghany is an investment company within the meaning of section 3 of the 1940 Act and subject to the provisions of section 7 thereof.

2. Whether or not Alleghany is subject to regulation under the Interstate Commerce Act within the meaning of section 3 (c) (9) of the 1940 Act.

3. Whether or not the Commission's order of October 4, 1945 entered in these proceedings should be revoked, suspended or modified and what terms and conditions, if any, should be imposed in connection with such revocation, suspension or modification.

4. Whether or not, with respect to any acts or transactions in which Alleghany, or any affiliated person of Alleghany, or any affiliate of such a person, is engaged or proposes to engage, including those referred to in paragraph 9 of Part I hereof, the 1940 Act requires that Alleghany shall have registered as an investment company prior to their consummation, and that appropriate application shall have been filed with and granted by the Commission.

It is further ordered that William W Swift, or any officer or officers of the Commission designated by it for that purpose shall preside at the hearing, and any officer or officers so designated to preside at any such hearing is hereby authorized to exercise all of the powers granted to the Commission under sections 41 and 42 (b) of the Investment Company Act of 1940 and to hearing officers under the Commission's rules of practice.

Notice of such hearing is hereby given to the Interstate Commerce Commission and Alleghany. Notice is also given to any other person or persons whose participation in such proceedings may be necessary or appropriate in the public interest or for the protection of investors Any answer or pleading by Alleghany with respect to the factual allegations contained in Part I or the issues herein shall be filed with the Secretary of the Commission on or before July 20, 1954. Any other person desiring to be heard in said proceeding should file with the hearing officer or the Secretary of the Commission, on or before July 26, 1954, his application therefor as provided by Rule XVII of the rules of practice of the Commission, setting forth therein any of the issues of law or fact which he desires to controvert and any additional issues he deems raised by the aforesaid applications.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 54-5351; Filed, July 13, 1954; 8:52 a. m.]

INTERSTATE COMMERCE COMMISSION

[Notice 16]

MOTOR CARRIER APPLICATIONS

JULY 9, 1954.

Protests, consisting of an original and two copies, to the granting of an application must be filed with the Commission

within 30 days from the date of publication of this notice in the FEDERAL REGISTER (49 CFR 1.240 and 49 CFR 1.241) Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding unless an oral hearing is held. In addition to other requirements of Rule 40 of the General Rules of Practice of the Commission (49 CFR 1.40) protests shall include a request for a public hearing, if one is desired, and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests containing general allegations may be rejected. Requests for an oral hearing must be supported by an explanation as to why the evidence cannot be submitted in the form of affidavits. Any interested person, not a protestant, desiring to receive notice of the time and place of any hearing, prehearing conference, taking of depositions, or other proceedings shall notify the Commission by letter or telegram within 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Except when circumstances require immediate action, an application for approval, under section 210a (b) of the act, of the temporary operation of motor carrier properties sought to be acquired in an application under section 5 (2) will not be disposed of sooner than 10 days from the date of publication of this notice in the FEDERAL REGISTER. If a protest is received prior to action being taken, it will be considered.

APPLICATIONS OF MOTOR CARRIERS OF PROPERTY

NO. MC 980 SUB 1, WHITFIELD TRUCK LINE, a corporation, 221 South Harvey Street, Picayune, Miss. Applicant's attorney· Claude F Pittman, Sr., Pittman & Pittman, Emporium Building, Hattiesburg, Miss. For authority to operate as a *common carrier* over a regular route, transporting: *General commodities,* except those of unusual value, livestock, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Picayune, Miss., and New Orleans, La., from Picayune, Miss., over U. S. Highway 11 to Santa Rosa, Miss., thence over Mississippi Highway 43 to Pearlington, Miss., and thence over U. S. Highway 90 to New Orleans, La., and return over the same route, serving no intermediate points, as an alternate route in connection with the carrier's regular route operations between Picayune, Miss., and New Orleans, La. Applicant is authorized to conduct operations in Mississippi and Louisiana.

NO. MC 16798 SUB 2, JOHN C. DAILEY AND DANIEL J. DUFFY, doing business as J. C. DAILEY COMPANY, 2803 E. Cambria St., Philadelphia, Pa. Applicant's attorney· G. Donald Bullock, Box 146, Wyncote, Pa. For authority to operate as a *common carrier* over irregular routes, transporting: *Boards and panels* (made of cane shavings compressed and wood shavings compressed), between points in the Philadelphia, Pa., Commercial Zone as defined by the Commission, on the one hand, and, on the other, points in Delaware, except Wilmington, those in Pennsylvania within 150 miles of Philadelphia, and points in New Jersey, Maryland, and the District of Columbia. Applicant is authorized to conduct operations in Delaware, District of Columbia, Maryland, New Jersey, and Pennsylvania.

NO. MC 19917 SUB 1, ARTHUR B. JARRELL, 1422 Smallman Street, Pittsburgh 22, Pa. For authority to operate as a *contract carrier* over irregular routes, transporting: *Prepared food products* and *advertising matter and stationery used or useful in the sale of such products,* from Pittsburgh, Pa., to Norfolk, Suffolk, Portsmouth, and Newport News, Va., and *returned and rejected shipments* of prepared food products and *fresh seafoods and shellfish,* on return movement. Applicant is authorized to conduct operations in Maryland, Massachusetts, Pennsylvania, and the District of Columbia.

NO. MC 22619 SUB 5, PULLEY FREIGHT LINES, INC., 2410 Hubbell Avenue, Des Moines, Iowa. Applicant's representative: William A. Landau, 1307 East Walnut Street, Des Moines 16, Iowa. For authority to operate as a *contract carrier* over irregular routes, transporting: *Canned goods,* from De Kalb, Mendota and Rochelle, Ill., to points in Iowa, except Des Moines, Iowa. Applicant is authorized to conduct operations in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, and Wisconsin.

NO. MC 36422 SUB 7, MERCHANTS CONTRACT DELIVERIES, INC., 1710 Washington Street, Kansas City, Mo. Applicant's attorney· Wentworth E. Griffin, Reeder, Gisler and Griffin, 1012 Baltimore Ave., Suite 1010, Kansas City 5, Mo. For authority to operate as a *contract carrier* over irregular routes, transporting: *Such merchandise as is dealt in by retail department and mail order stores as may be traded in as part payment on merchandise purchased,* from points in Doniphan, Atchison, Miami, Linn, Bourbon, Crawford, Anderson, Franklin, Douglas, Jefferson, Jackson, Shawnee, Osage, Lyon, Wabaunsee, Pottawatomie, Brown, Nemaha, Allen, Neosho, Coffey, Geary, Leavenworth, Johnson and Wyandotte Counties, Kans., to Kansas City, Mo.

NO. MC 48508 SUB 17, JACKSON TRUCKING CO., INC., 444 West Troy Avenue, Indianapolis, Ind. Applicant's attorney· William J. Guenther, Boyce, Guenther, Harrison & Moberly, 1511–14 Fletcher Trust Building, Indianapolis, Ind. For authority to operate as a *contract carrier* over irregular routes, transporting: *Salad dressing,* from Indianapolis, Ind., to Detroit, Mich., Akron, Canton, Cleveland, Toledo and Youngstown, Ohio, Buffalo, Jamestown and Olean, N. Y., Erie, Pittsburgh and Warren, Pa., and Clarksburg, Fairmont, Elkins, Elm Grove, Morgantown and Wheeling, W Va., and *empty containers or other such incidental facilities,* used in transporting the commodities specified on return.

NO. MC 52781 SUB 1, LEE W OVERCASH, doing business as OVERCASH TRANSFER, C. M. Route 544, Box 812, Charlotte, N. C. Applicant's attorney· Fred Henderson Hasty, Law Building, Charlotte, N. C. For authority to operate as a *contract carrier* over irregular routes, transporting: *Pipe, pipe fittings,* and *such materials, supplies,* and *equipment* as are used in the installation and maintenance of sprinkler, heating and power piping systems, and also such *tools* and *equipment* as are used for installing and maintaining the aforementioned installations, between Charlotte, N. C., on the one hand, and, on the other, points in North Carolina, South Carolina and Virginia, except those in North Carolina and South Carolina within 150 miles of Charlotte, N. C., and *empty containers or other such incidental facilities* used in transporting the commodities specified on return. Applicant is authorized to conduct operations in North Carolina and South Carolina.

NO. MC 59894 SUB 10, TEXAS-ARIZONA MOTOR FREIGHT, INC., P. O. Box 1034, El Paso, Tex. Applicant's attorney· David Axelrod, 39 South La Salle Street, Chicago 3, Ill. For authority to operate as a *common carrier,* over regular routes, transporting: *General commodities,* except commodities of unusual value, livestock, Class A and B explosives, inflammables, liquids in bulk, commodities requiring special equipment, and household goods as defined by the Commission, between junction U. S. Highway 80 and Arizona Highway 90 and Nogales, Ariz., operating from junction U. S. Highway 80 and Arizona Highway 90 over Arizona Highway 90 to junction Arizona Highway 92, thence over Arizona Highway 92 to junction Arizona Highway 82, thence over Arizona Highway 82 to Nogales, and return over the same route, serving all intermediate points and the off-route point of Fort Huachuca, Ariz., and *general commodities,* except those of unusual value, and except Class A and B explosives, commodities in bulk, and those requiring special equipment, serving the site of Yuma Testing Station, Ariz., located approximately 26 miles northeast of Yuma, Ariz., as an off-route point in connection with carrier's regular route operations between Los Angeles Harbor, Calif., and Nogales, Ariz., and between Indio, Calif., and Phoenix, Ariz. Applicant is authorized to conduct operations in California, Arizona, Texas, and New Mexico.

NO. MC 64932 SUB 154, ROGERS CARTAGE CO., a corporation, 1934 South Wentworth Avenue, Chicago, Ill. Applicant's attorney· Jack Goodman, Axelrod, Goodman & Steiner, 39 South La Salle Street, Chicago 3, Ill. For authority to operate as a *common carrier,* over irregular routes, transporting: *Corn syrup* and *vegetable oils,* in bulk, in tank vehicles, from Decatur, Ill., and points within five miles thereof, to points in Nebraska. Applicant is authorized to conduct operations in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, New York, Ohio, Pennsylvania, Tennessee, and Wisconsin.

NO. MC 68807 SUB 19, BENJAMIN H. HERR, doing business as HERR'S MOTOR EXPRESS, Quarryville, Pa. Applicant's attorney· Bernard N. Gingerich,

Quarryville, Pa. For authority to operate as a *contract carrier* over irregular routes, transporting: *Composition roofing, composition siding, composition roofing and composition siding materials* and *articles used in the application of composition roofing and composition siding,* from Edge Moor, Del., to points in Connecticut, and those in Bradford, Pike, Sullivan, Susquehanna Tioga, Wayne, and Wyoming Counties, Pa., and *empty containers or other incidental facilities* (not specified) used in transporting the above-specified commodities on return.

NO. MC 78632 SUB 67 (Reopened—Further Hearing) HOOVER MOTOR EXPRESS COMPANY, INC., 414 Fifth Avenue, South, Nashville, Tenn. Applicant's attorney: Whitworth Stokes, 535 Third National Bank Building, Nashville 3, Tenn. For authority to operate as a *common carrier* transporting: *General commodities,* except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, serving Alcoa, Tenn., as an off-route point in connection with carrier's regular route operations between Knoxville, Tenn., and Cartersville, Ga., over Tennessee Highway 73 and U. S. Highway 129. Applicant is authorized to conduct operations in Tennessee, Georgia, Alabama, Missouri, Illinois, Ohio and Kentucky.

NO. MC 89520 SUB 8 (Amended) C. J. VAN BEEKUM, INC., 2223 Seventh Street, Lubbock, Texas. Applicant's attorney: W. D. Benson, Jr., Eighth Floor, Lubbock National Bank Building, Lubbock, Texas. For authority to operate as a *contract carrier* over irregular routes, transporting: *Class A, B, and C explosives, blasting supplies, materials and agents,* from Atlas, Mo., and points within 35 miles thereof, to points in Arizona, New Mexico, and Texas. Applicant is authorized to conduct operations in Missouri, Texas, Oklahoma, and New Mexico.

NO. MC 96631 SUB 1, (Reassigned for hearing) A. B. JAMES, doing business as A. B. JAMES FREIGHT LINE, 1886 Chatsworth Boulevard, San Diego, Calif. For authority to operate as a *common carrier* over a regular route, transporting: *General commodities,* except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, *restricted to traffic moving* (1) on government bills of lading, and (2) in foreign commerce, Between San Diego, Calif., and San Francisco, Calif., operating from San Diego over U. S. Highway 101 to Los Angeles, Calif., (also from San Diego over U. S. Highway 101 to junction Alternate U. S. Highway 101, thence over Alternate U. S. Highway 101 to Los Angeles) thence over U. S. Highway 99 to Manteca, Calif., thence over U. S. Highway 50 via Oakland, Calif., to San Francisco, and return over the same route, serving the intermediate points of Oakland and Alameda, Calif., and the off-route point of North Island, Calif. Applicant is authorized to conduct operations in California.

NO. MC 98263 SUB 7, KATHERINE M. LEE AND TIM M. BABCOCK, doing business as BABCOCK AND LEE, P O. Box 173, Miles City, Mont. For authority to operate as a *common carrier* over irregular routes, transporting: *Aviation gasoline,* in bulk, in tank trucks, from Salt Lake City, Utah, and points within 10 miles thereof, to Miles City Airport, Miles City, Mont. Applicant is authorized to conduct operations in Montana under the second proviso of section 206 (a) (1) of the Interstate Commerce Act.

NO. MC 98263 SUB 8, CATHERINE M. LEE AND TIM M. BABCOCK, doing business as BABCOCK AND LEE, P O. Box 173, Miles City, Mont. For authority to operate as a *common carrier* over irregular routes, transporting: *Petroleum and petroleum products,* in bulk, in tank trucks, from Glendive and Miles City, Mont., and points within 10 miles of each, to points in North Dakota and South Dakota. Applicant is authorized to conduct operations in Montana under the second proviso of section 206 (a) (1) of the Interstate Commerce Act.

NO. MC 104819 SUB 85, C. E. McBRIDE, doing business as COLONIAL FAST FREIGHT LINES, 1201 First Avenue, N., P O. Box 2169, Birmingham, Ala. For authority to operate as a *common carrier* over irregular routes, transporting: *Frozen foods* and *foods requiring refrigeration in transit,* from points in the New York, N. Y., Commercial Zone as defined by the Commission to Mobile, Ala., Jacksonville, Fla., Atlanta, Augusta, Columbus and Savannah, Ga., Baton Rouge, Lake Charles, and New Orleans, La., Portland, Maine, Baltimore and Piney Point, Md., Boston, Mass., St. Louis, Mo., Charlotte and Raleigh, N. C., Portland, Oreg., Philadelphia, Pa., Charleston, S. C., Beaumont, Corpus Christi, Dallas, Fort Worth, Galveston, Houston, Port Arthur, and Texas City Tex., and Newport News, Norfolk, and Richmond, Va. Applicant is authorized to conduct operations in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin.

NO. MC 105556 SUB 16, HOUCK TRANSPORT COMPANY, 1024 Second Avenue North, Billings, Mont. Applicant's attorney: Franklin S. Longan, Suite 319 Securities Building, Billings, Mont. For authority to operate as a *common carrier* over irregular routes, transporting: *Petroleum* and *petroleum products,* in bulk, in tank vehicles, from Billings and Laurel, Mont., and points within 10 miles of each, to points in Harding, Perkins, Carson, Campbell, McPherson, Edmunds, Walworth, Dewey, Butte, Ziebach, Armstrong, Potter, Faulk, Hand, Hyde, Sully, Meade, Lawrence, Pennington, Haakon, Hughes, Buffalo, Lyman, Jones, Jackson, and Brule Counties, S. Dak., eliminating any duplication of present authority. Applicant is authorized to conduct operations in Montana, North Dakota, Wyoming, and South Dakota.

NO. MC 106398 SUB 16, NATIONAL TRAILER CONVOY, INC., Box 8096, Dawson Station, 1916 North Sheridan Road, Tulsa, Oklahoma. For authority to operate as a *common carrier,* over irregular routes, transporting: *Rescue trailers,* via truckaway method, from Kosciusko, Miss., to points in the United States.

NO. MC 106647, SUB 25, CLARK TRANSPORT COMPANY, a corporation, Box 295, Chicago Heights, Ill. Applicant's attorney: Edmund M. Brady, Matheson, Dixon & Brady, Guardian Building, Detroit 26, Mich. For authority to operate as a *common carrier,* over irregular routes, transporting: *Automobiles, trucks,* and *chassis,* in secondary movement, by truckaway method, and *bodies* and *cabs,* from Minneapolis, Minn., to points in South Dakota. Applicant is authorized to conduct operations in Michigan, Nebraska, Iowa, Wisconsin, Illinois, Ohio, Indiana, Minnesota, North Dakota, and South Dakota.

NO. MC 107151 SUB 8, H. F JOHNSON, INC., P O. Box 1403, Billings, Mont. Applicant's attorney: T. H. Burke, Burke & Hibbs, Securities Building, Billings, Mont. For authority to operate as a *common carrier,* over irregular routes, transporting: *Petroleum* and *petroleum products,* in bulk, in tank vehicles, from Billings, Laurel, and Glendive, Mont., and points within 10 miles of each, to points in North Dakota east of U. S. Highway 83. Applicant is authorized to conduct operations in North Dakota, Montana, Idaho, and Wyoming.

NO. MC 107151 SUB 9, H. F JOHNSON, INC., P O. Box 1403, Billings, Mont. Applicant's attorney: T. H. Burke, Burke & Hibbs, Securities Building, Billings, Mont. For authority to operate as a *common carrier,* over irregular routes, transporting: *Petroleum* and *petroleum products,* in bulk, in tank vehicles, from Jamestown, Dickinson, Minot, Williston and Tioga, N. Dak., and points within 20 miles of each, to points in Montana, Wyoming, and South Dakota, and to ports of entry on the United States-Canada International Boundary line in North Dakota and in Montana on and east of U. S. Highway 91. Applicant is authorized to conduct operations in Montana, North Dakota, Idaho, and Wyoming.

NO. MC 107515 SUB 150, REFRIGERATED TRANSPORT CO., INC., 290 University Avenue, S. W., Atlanta, Ga. Applicant's attorney: Allan Watkins, Edgar Watkins and Allen Watkins, Grant Building, Atlanta 3, Ga. For authority to operate as a *common carrier* over irregular routes, transporting: *Frozen foods,* from Omaha, Nebr., and Council Bluffs, Iowa, to points in Alabama, Georgia, North Carolina, South Carolina, and Florida. Applicant is authorized to conduct operations in Arkansas, Georgia, Tennessee, Louisiana, North Carolina, South Carolina, Florida, Alabama, Mississippi, Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, Wisconsin, Kansas, Texas, Iowa, Minnesota, Nebraska, and Oklahoma.

NO. MC 107515 SUB 151, REFRIGERATED TRANSPORT CO., INC., 290 University Avenue, S. W., Atlanta, Ga. Applicant's attorney: Allan Watkins, Edgar Watkins and Allan Watkins, Grant Building, Atlanta 3, Ga. For authority to operate as a *common carrier* over irregular routes, transporting: *Prepared and frozen dough,* from Downers Grove, Ill., and points in the Chicago, Ill., Commercial Zone as defined by the Commission, to Atlanta, Ga., Birmingham, Ala., and Jacksonville, Fla., and points within 10 miles of each. Applicant is authorized to conduct operations in Arkansas, Alabama, Florida, Georgia, Iowa, Mississippi, Louisiana, Tennessee, North Carolina, South Carolina, Illinois, Indiana, Missouri, and Kentucky.

NO. MC 107515 SUB 152, REFRIGERATED TRANSPORT CO., INC., 290 University Avenue, S. W., Atlanta, Ga. Applicant's attorney: Allan Watkins, Edgar Watkins and Allen Watkins, Grant Building, Atlanta 3, Ga. For authority to operate as a *common carrier* over irregular routes, transporting: *Dairy products* as defined by the Commission in Ex Parte No. MC–38, from points in Missouri, Iowa, Kansas, and Nebraska to points in Alabama, Georgia, Florida, North Carolina, South Carolina, and Mississippi. Applicant is authorized to conduct operations in Mississippi, North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, Louisiana, Wisconsin, Illinois, Ohio, Texas, and Missouri.

NO. MC 107780 SUB 2 (Reopened—Further Hearing) GEORGE R. PIRNIE AND JAMES PIRNIE, a partnership, doing business as ARROW FREIGHT LINES, Broken Bow, Nebr. Applicant's attorney: Allen F. Black, Broken Bow, Nebr. For authority to operate as a *common carrier* transporting: *General commodities,* except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, (1) Between Grand Island, Nebr., and Ravenna, Nebr., over Nebraska Highway 2, serving all intermediate points, and (2) Between Gate No. 1, Cornhusker Ordnance Plant, located approximately 5 miles west of Grand Island, Nebr., and a point on Nebraska Highway No. 2 approximately 3½ miles north of said Gate No. 1, via unnumbered county roads, serving no intermediate points, as off-route points in connection with carrier's authorized regular route operations between Broken Bow, Nebr., and Lincoln, Nebr.

NO. MC 109451 SUB 31, ECOFF TRUCKING, INC., 117 McCarty Street, Fortville, Ind. Applicant's attorney: William J. Guenther, Boyce, Guenther, Harrison and Moberly, 1511–14 Fletcher Trust Building, Indianapolis, Ind. For authority to operate as a *contract carrier* over irregular routes, transporting: *Sodium phosphate,* in bulk, in hopper type motor vehicles, from Fernald, Ohio, to Clarkesville, Ind.

NO. MC 111758 SUB 9, LIQUID CARRIERS, INC., P. O. Box 241, Bay Minette, Alabama. For authority to operate as a *common carrier* over irregular routes, transporting: *Black sulphate liquor skimmings,* in bulk, in tank vehicles, from Foley, Fla., to Bay Minette, Ala. Applicant is authorized to conduct operations in Florida and Alabama.

NO. MC 114740 SUB 2, IVON E. CREWSE AND JAMES W REESE, doing business as CREWSE & REESE, 2403 Lyon Street, Des Moines, Iowa. Applicant's representative: William A. Landau, 1307 East Walnut Street, Des Moines 16, Iowa. For authority to operate as a *contract carrier* over irregular routes, transporting: *Bakery goods and materials and supplies used in or incidental to the conduct of a baking business,* between Des Moines, Iowa, and Omaha, Nebr.

NO. MC 114759 SUB 1, PAUL COLLIGAN, doing business as COLLIGAN CARTAGE COMPANY, 4711 East Lake Road, Erie, Pa. Applicant's attorney: James P. Bryan, Bryan, Joslin and Bryan, 1206 Baldwin Building, Erie, Pa. For authority to operate as a *contract carrier* over irregular routes, transporting: *Compressed and liquefied gases,* in shipper-owned manifold-tube trailers, as follows: Acetylene air (liquid) argon, carbon dioxide, helium, hopane, hydrogen, krypton, natoxaline, neon, nitrogen, oxygen, and xeon, from Euclid, Ohio, to points in Erie and Warren Counties, Pa., and *manifold-tube trailers,* on return.

NO. MC 114781, (Amended), HYMAN D. ABRAMSON AND DONALD W ABRAMSON, doing business as H. D. ABRAMSON AND SON, 131 Hess Blvd., Lancaster, Pa. Applicant's representative: Bernard N. Gingerich, Quarryville, Pa. For authority to operate as a *common carrier* over irregular routes, transporting: *Non-inflammable petroleum products,* from Karns City, and Titusville, Pa., to Philadelphia, Pa.

NO. MC 114785, ARNOLD N. GILMER, 36 Aberdeen Avenue, Aberdeen, Md. Applicant's attorney: John H. Skeen, Jr., Skeen, Wilson and Coughlin, Fidelity Building, Baltimore 1, Md. For authority to operate as a *common carrier,* over irregular routes, transporting: *Household goods* as defined by the Commission, between Aberdeen, Md., and points in Maryland within 25 miles thereof, on the one hand, and, on the other, points in Maryland, New Jersey, Pennsylvania, Virginia, North Carolina, Delaware, and the District of Columbia.

NO. MC 114809, DAVEY CARTAGE CO. LIMITED, 1773 West 2nd Ave., Vancouver 9, B. C., Canada. Applicant's attorney: George H. Hart, Kellogg, Reaugh, Hart & Johnson, Central Building, Seattle 4, Wash. For authority to operate as a *common carrier,* over irregular routes, transporting: Lumber, from United States-Canada International Boundary line at Blaine, Sumas, and Lynden, Wash., to Bellingham, Wash.

NO. MC 114811, FORT WORTH DAIRY PRODUCTS COMPANY, a corporation, 1700 West Morphy Street, Fort Worth 1, Texas. Applicant's attorney: Ewell H. Muse, Jr., Suite 415 Perry Brooks Building, Austin, Texas. For authority to operate as a *common carrier,* over irregular routes, transporting: *Paper containers* and *paper boxes, including paper milk cartons,* from Bastrop, La., and points within 10 miles thereof, to points in Dallas and Tarrant Counties, Tex.

APPLICATIONS OF MOTOR CARRIERS OF PASSENGERS

NO. MC 9675 SUB 2, BOWLING GREEN-HOPKINSVILLE BUS CO., INC., Public Square, Russellville, Ky. Applicant's attorney: Robert M. Pearce, McChesney & McChesney, 711 McClure Building, Frankfort, Ky. For authority to operate as a *common carrier* over a regular route, transporting: *Passengers and their baggage,* and *express* and *newspapers,* in the same vehicle with passengers, between Glasgow, Ky., and Somerset, Ky., over Kentucky Highway 80, serving all intermediate points. Applicant is authorized to conduct operations in Kentucky and Tennessee.

NO. MC 30608 SUB 8, SOUTHERN KANSAS GREYHOUND LINES, INC., 608 Pickwick Building, McGee at Ninth St., Kansas City, Mo. Applicant's attorney: C. Zimmerman, 503 Schweiter Bldg., Wichita 2, Kans. For authority to operate as a *common carrier,* over regular routes, transporting: *Passengers and their baggage, express* and *newspapers,* in the same vehicle with passengers, between Bartlesville, Okla., and Dewey, Okla., from Bartlesville, east over U. S. Highway 60 (a distance of approximately two miles) to junction relocated U. S. Highway 75, thence north over relocated U. S. Highway 75 to Dewey, and return over the same route, serving all intermediate points. Applicant is authorized to conduct operations in Kansas, Missouri and Oklahoma.

NO. MC 58915 SUB 25, LINCOLN TRANSIT CO., INC., Route 46, East Paterson, N. J. Applicant's attorney: Robert E. Goldstein, 1407 Broadway, New York 18, N. Y. For authority to operate as a *common carrier* over regular routes, transporting: *Passengers and their baggage,* and *express,* and *newspapers,* in the same vehicle with passengers, between (1) Absecon, N. J., and Cape May, N. J., over U. S. Highway 9, (2) Atlantic City, N. J., and Cape May, N. J., over Ocean Drive from Atlantic City to junction U. S. Highway 9 near Cape May, N. J., thence over above-described route (U. S. Highway 9) to Cape May, and return over the same route, (3) Pleasantville, N. J., and Cape May, N. J., over U. S. Highway 40 from junction Shore Road in Pleasantville to junction Atlantic County Highway 50 in Egg Harbor Township, N. J., thence over Atlantic County Highway 50 to junction Garden State Parkway access roads, thence over Garden State Parkway access roads to junction the Garden State Parkway, thence over the Garden State Parkway to junction U. S. Highway 9 near Cape May, N. J., thence over route described under (1) above (U. S. Highway 9) to Cape May, and return over the same route, (4) Somers Point, N. J., and Ocean City, N. J., over Garden State Parkway access roads from junction the Garden State Parkway in Somers Point to junction New Jersey Highway 52, thence over New Jersey Highway 52 to Ocean City,

and return over the same route, (5) Dennis Township, N. J., and Sea Isle City, N. J., over Garden State Parkway access roads from junction the Garden State Parkway in Dennis Township to junction Cape May County Route 25 (Sea Isle Boulevard) thence over Cape May County Route 25 (Sea Isle Boulevard) to Sea Isle City, and return over the same route, and (6) Middle Township, N. J., and North Wildwood, N. J., over Garden State Parkway access roads from junction the Garden State Parkway in Middle Township to junction Cap May County Route 18 (Wildwood Boulevard) thence over Cap May County Route 18 (Wildwood Boulevard) to North Wildwood, and return over the same route, serving all intermediate points on said routes. Applicant is authorized to conduct operations in New Jersey and New York.

NO. MC 98713 SUB 1, THOBURN S. HAWORTH, RUTH HEALY HAWORTH, BRYAN W HAWORTH, AND MARGARET HAWORTH, doing business as ORANGE BELT STAGES, 601 East Acequia Street, Visalia, Calif. Applicant's attorney: John D. Maatta, 800 Balfour Building, 351 California Street, San Francisco 4, Calif. For authority to operate as a *common carrier* over a regular route, transporting: *Passengers and their baggage, and express, newspapers and mail,* in the same vehicle with passengers, between Famoso, Calif., and Bakersfield, Calif., over U. S. Highway 99, serving all intermediate points. Applicant is authorized to conduct operations in California under the second proviso of section 206 (a) (1) of the Interstate Commerce Act.

NO. MC 114710 SUB 1, T. L. BARRENTINE AND W E. THARPE, doing business as BARRENTINE & THARPE BUS COMPANY, Brewton, Ala. Applicant's attorney: Hugh R. Williams, 2284 West Fairview Avenue, Montgomery, Ala. For authority to operate as a *common carrier* over a regular route, transporting: *Passengers and their baggage,* between Brewton, Ala., and the plant of the Chemstrand Corp. (near Gonzalez, Fla.) from Brewton, Ala., over U. S. Highway 31 to Flomaton, Ala., thence over U. S. Highway 29 to junction with Chemstrand Road, in Gonzalez, Fla., and thence over Chemstrand Road to the plant of the Chemstrand Corp., east of Gonzalez, Fla., and return over the same route, serving the intermediate points of Pollard and Flomaton, Ala. RESTRICTION. The service to be performed shall be limited to a commuter service for employees of the Chemstrand Corp.

CORRECTIONS

In F R. Document 54-4953, Page 3979, issue of Wednesday June 30, 1954, third column, application No. MC 114790, NICHOLS TRANSPORT LTD., a corporation. Change line 10 and 11 reading "New York-Canadian International Boundary line" to read: "United States-Canada International Boundary line."

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

NO. MC-F-5694. Authority sought for purchase by MERCURY FREIGHT LINES, INC., 312 4th Avenue, North, Birmingham, Ala., of the operating rights and property of CHOCTAW TRANSPORT, INC., Bolinger, Ala., and for acquisition by J. H. ANDERSEN, D. J. SHARRON AND CLARENCE LEVI, Birmingham, Ala., of control of the operating rights through the purchase. Applicants' attorney: Maurice F Bishop, 327 Frank Nelson Bldg., Birmingham, Ala. Operating rights sought to be transferred: *General commodities,* except dangerous explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, as a *common carrier* over regular routes, between Mobile, Ala., and York, Pa., serving all intermediate points and the off-route points of Bladon Springs, Frankville, Koenton, and St. Stephens, Ala., between Mobile, Ala., and Chatom, Ala., serving no intermediate points; between Butler, Ala., and Meridian, Miss., serving all intermediate points and the off-route points of Lisman and Riderwood, Ala. Vendee is authorized to operate in Alabama and Florida. Application has not been filed for temporary authority under section 210a (b)

NO. MC-F-5730. CUMBERLAND RIVER SAND & GRAVEL COMPANY, 10 Fatherland St., Nashville, Tenn., seeks to control CUMBERLAND & OHIO COMPANY, INC., 10 Fatherland St., Nashville, Tenn. Applicant's attorney: A. O. Buch, Nashville Trust Bldg., Nashville, Tenn. Operating rights sought to be controlled: Public convenience and necessity require operation by Cumberland & Ohio Company, Inc., as a *common carrier* by towing vessels in the performance of *general towage,* and by non-self-propelled vessels with the use of separate towing vessels in the transportation of *general commodities,* in interstate or foreign commerce, between points along the Cumberland River below and including Carthage, Tenn., and between such points, on the one hand, and, on the other, those along the Ohio River below and including Smithland, Ky. Applicant is not a motor carrier, but certain of its officers and directors are also officers and directors of Super Service Motor Freight Company, Inc., a motor common carrier, which operates in Pennsylvania, New York, Tennessee, Virginia, Georgia, New Jersey and Maryland. *Concurrent petition* filed by applicant to dismiss application for the reason that the Commission does not have jurisdiction over the transaction. Application has not been filed for temporary authority under section 210a (b)

NO. MC-F-5736. Authority sought for purchase by CARL H. SCHULTZ, doing business as SCHULTZ'S MOVING SERVICE, Second Avenue and Lawrence St., Spring Valley, N. Y., of the operating rights and property of JOHN HENRY SCHULTZ (THEODORE F. SCHULTZ AND LEWIS M. DREW EXECUTORS) and CARL H. SCHULTZ, doing business as SCHULTZ'S MOVING SERVICE, Second Avenue and Lawrence St., Spring Valley, N. Y. Applicants' attorney: Bert Collins, 140 Cedar St., New York, N. Y. Operating rights sought to be transferred: *Household goods,* as a *common carrier,* over irregular routes, between Spring Valley, N. Y., and points within 15 miles of Spring Valley, on the one hand, and, on the other, points in Connecticut, Delaware, Georgia, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia. Vendee is not a motor carrier, but is affiliated with United Van Lines, Inc., which is authorized to operate between all points in the United States. Application has not been filed for temporary authority under section 210a (b)

NO. MC-F-5738. THE GREYHOUND CORPORATION, 2600 Board of Trade Bldg., Chicago, Ill., seeks to control CAPITOL GREYHOUND LINES, Fifth and Sycamore Sts., Cincinnati, Ohio. Applicants' attorney: John R. Turney, 2001 Massachusetts Ave., N. W., Washington, D. C. Operating rights sought to be controlled: *Passengers and their baggage,* and *express,* and *newspapers,* in the same vehicle with passengers, as a *common carrier,* over regular routes, from, to and between points in Missouri, Illinois, Virginia, Ohio, Indiana, Kentucky, West Virginia, Pennsylvania, Massachusetts, Maryland, and the District of Columbia, serving specified intermediate and off-route points. If a more detailed description of the service is desired, copies of the application may be viewed at the office of the regulatory Commission of any state involved. Applicant is authorized to operate as a common carrier in all states in the United States except, Connecticut, Delaware, District of Columbia, Maryland, New Mexico, North Carolina, North Dakota, Oklahoma, Rhode Island, South Carolina, Texas, Vermont, Virginia, and Wisconsin.

NO. MC-F-5744. Authority sought for purchase by CENTRAL MOTOR EXPRESS, INC., 2909 South Hickory St., Chattanooga, Tenn., of the operating rights and property of CHANDLER FREIGHT LINE, INC., 3501 Fifth Avenue, North, Birmingham, Ala., and for acquisition by B. F HAWK, SR., Chattanooga, Tenn., of control of the operating rights through the purchase. Applicants' attorney: Blaine Buchanan, 1024 James Bldg., Chattanooga, Tenn. Operating rights sought to be transferred: *General commodities,* as a *common carrier,* over regular routes, between Chattanooga, Tenn., and Birmingham and Gadsden, Ala., between Cedartown, Ga., and Anniston, Ala., and between Piedmond and Blue Mountain, Ala., and Gadsden, Ala., serving specified intermediate and off-route points. Vendee is authorized to perform similar operations in Tennessee. Application has not been filed for temporary authority under section 210a (b)

By the Commission.

[SEAL] GEORGE W LAIRD, *Secretary.*

[F. R. Doc. 54-5368; Filed, July 13, 1954; 8:54 a. m.]

[4th Sec. Application 29460]

FLY ASH BETWEEN OFFICIAL AND SOUTHERN TERRITORIES

APPLICATION FOR RELIEF

JULY 9, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by C. W Bom, Agent, for carriers parties to schedule listed below.

Commodities involved: Fly ash, carloads.

Between: Points in official territory and points in southern territory.

Grounds for relief: Rail competition, circuity, and rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. W Bom, Agent, I. C. C. No. A–1008, supp. 3.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD, *Secretary.*

[F. R. Doc. 54–5355; Filed, July 13, 1954; 8:52 a. m.]

[4th Sec. Application 29461]

FLY ASH BETWEEN POINTS IN WESTERN TRUNK-LINE TERRITORY AND BETWEEN WESTERN TRUNK-LINE TERRITORY AND OFFICIAL AND SOUTHERN TERRITORIES

APPLICATION FOR RELIEF

JULY 9, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by W J. Prueter, Agent, for carriers parties to schedules listed below.

Commodities involved: Fly ash, carloads.

Between: Points in western trunk-line territory and between points in that territory on the one hand, and points in official and southern territories, on the other.

Grounds for relief: Rail competition, circuity, and to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: W J. Prueter, Agent, I. C. C. No. A–4041, supp. 2; W. J. Prueter, Agent, I. C. C. No. A–4048; H. R. Hinsch, Agent, I. C. C. No. 4609, supp. 1.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54–5356; Filed, July 13, 1954; 8:52 a. m.]

[4th Sec. Application 29462]

PIG IRON FROM ROCKWOOD, TENN., TO OFFICIAL AND ILLINOIS TERRITORIES

APPLICATION FOR RELIEF

JULY 9, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Pig iron, carloads.

From: Rockwood, Tenn.

To: Points in official and Illinois territories.

Grounds for relief. Rail competition, circuity, and additional origin.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1420, supp. 6.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54–5357; Filed, July 13, 1954; 8:53 a. m.]